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CHARLES ELMORE CROPLEY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 112

DAVIES WAREHOUSE COMPANY, a corporation,
Petitioner,

vs.

PRENTISS M. BROWN, Price Administrator,
Respondent.

Brief in Support of Petition for a Writ of Certiorari to the United States Emergency Court of Appeals.

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SUPREME COURT OF THE UNITED STATES

October Term, 1943

No. 112

Davies Warehouse Company, a corporation,
Petitioner,

vs.

Prentiss M. Brown, Price Administrator,
Respondent.

Brief in Support of Petition for a Writ of Certiorari to the United States Emergency Court of Appeals.

PRELIMINARY STATEMENT.

We are mindful of the rule of this Court that briefs must be short and concise. Regretfully, we have been compelled to indulge in rather extensive discussion of the many questions raised in this proceeding in order that the reasons which we urge as justifying the allowance of the writ may be made clear and shown to be meritorious.

For a statement of the grounds on which the jurisdiction of this Court is invoked and a statement of the case, reference is hereby made to the petition on file herein.

SPECIFICATIONS OF ERRORS INTENDED TO BE URGED.

It is respectfully submitted that the United States Emergency Court of Appeals has erred:

1. In holding that petitioner is not a public utility within the meaning of Section 302(c)(2) of the Emergency Price Control Act of 1942 as amended by the proviso of Section 1 of the Inflation Control Act of 1942.

2. In holding that petitioner is not exempt from The General Maximum Price Regulation promulgated by the respondent, Price Administrator.

3. In construing Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act to mean that Congress intended to exempt only the classes of common carriers and public utilities which are characterized as the "traditional utilities".

4. In failing to hold that a public utility warehouseman is a "traditional utility" within that characterization.

5. In failing to hold that, when Congress enacted Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, it intended to exempt from regulation by the respondent only the rates of those classes of common carriers or other public utilities which are subject to regulation by an existing Federal, State or municipal authority.

6. In failing to hold that, when Congress enacted Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, it intended that the application thereof would be dependent upon Federal, State and municipal laws which regulate the rates and charges of common carriers and other public utilities.

7. In failing to hold that when Congress enacted Sections 302(c) and 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, it intended to exempt the rates charged by common carriers in the distribution of commodities as well as the rates charged by public utility warehousemen in the storage of commodities, and

8. In dismissing the complaint.

CHRONOLOGICAL STATEMENT.

The chronology, which is pertinent in this case, is as follows:

The General Maximum Price Regulation issued by respondent on April 28, 1942. (R. 46)

Supplementary Regulation No. 11 to The General Maximum Price Regulation issued by respondent on June 16, 1942. (R. 97)

Amendment No. 1 to said Supplementary Regulation No. 11 issued by respondent on June 23, 1942. (R. 101)

Protest filed by petitioner before respondent on June 26, 1942. (R. 15)

Order of respondent denying said protest, dated July 27, 1942. (R. 41)

Opinion of respondent accompanying the said order denying protest, dated July 27, 1942. (R. 42)

Complaint of petitioner against respondent filed on August 25, 1942 in the Emergency Court of Appeals. (R. 1)

Answer of respondent to said complaint filed in the Emergency Court of Appeals on September 5, 1942. (R. 13)

Order of the Emergency Court of Appeals dated January 25, 1943, substituting Prentiss M. Brown as respondent in said complaint in the place and stead of Leon Henderson. (R. 146)

Opinion of the Emergency Court of Appeals dated May 28, 1943, directing the dismissal of said Complaint together with concurring and dissenting opinions. (R. 109)

Judgment Order of the Emergency Court of Appeals dismissing the Complaint made and entered on May 28, 1943. (R. 145)

ARGUMENT.

I.

COMPLAINANT IS A PUBLIC UTILITY UNDER CALIFORNIA LAW.

Inasmuch as respondent has conceded that petitioner is a public utility under the laws of California, it is unnecessary to discuss those laws other than to say that the business of a public warehouseman is declared to be that of

a public utility and is so regulated by the Railroad Commission of California under and by virtue of Sections 33 of Article IV and 23 of Article XII of the California Constitution[1] and Sections 2(aa),[2] 2(dd)[3] and 2½[4] of the Public Utilities Act of the State of California.[5]

The fact that petitioner is a public utility under California law, as conceded by respondent, is, we feel, determinative of the issues raised in this proceeding in petitioner's favor.

The exemption under question applies to the "rates charged by any common carrier or other public utility". There is no limitation expressed by Congress as to which common carriers or public utilities it had in mind. The doctrine announced in *Keifer & Keifer v. R. F. C.*,[6] so strongly relied upon in the majority opinion, actually supports petitioner's contention, for, had Congress intended to express a limitation of the term "public utility", as it might have done, it would have done so.

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1. Mason's Constitution of California, Annotated (1933) pp. 674, 1444.

2. California Statutes 1915, p. 118; Deering's General Laws of California (1937) Volume Two, p. 3124.

3. California Statutes 1937, p. 2478; Deering's General Laws of California (1937) Volume Two, p. 3125.

4. California Statutes 1927, p. 1918; Deering's General Laws of California (1937) Volume Two, p. 3126.

5. Statutes 1915, p. 115, as amended. Except for amendments adopted since 1937, which have no pertinency to this proceeding, all of the provisions of the Public Utilities Act may be found in Deering's General Laws of California (1937), Volume Two, commencing at page 3119.

6. 306 U.S. 381, 395.

II.

ARGUMENT IN SUPPORT OF REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT.

A. The Diversity of Opinion Among the Judges of the Emergency Court of Appeals as Well as the Uncertainty of the Conclusions Expressed by the Two Judges Who Joined in the Majority Opinion, Justify the Allowance of the Writ.

1. The diversity of opinion among the Judges of the Emergency Court of Appeals.

In subparagraph 5(b) of Rule 38 of the Revised Rules of Court it is indicated that this Court will review a case where a circuit court of appeals has rendered a decision in conflict with the decision of another circuit court of appeals on the same matter.

Inasmuch as under Section 204(d) of the Price Act, the Emergency Court of Appeals (except for the jurisdiction of this Court on review) has exclusive jurisdiction to determine the validity of any regulation or order issued by the respondent, Price Administrator, there is, of course, no other court of equal jurisdiction whose decision might be in conflict with the decision under attack.

However, by analogy, we find that among the Judges of the Emergency Court of Appeals, there is a marked diversity of opinion as to whether or not petitioner is entitled to exemption under Section 302(c)(2) of the Price Act, as amended by the proviso of Section 1 of the Inflation Act.

In rendering the majority opinion of the Emergency Court of Appeals (R. 109), Judge Maris has held that while petitioner may be operating as a public utility under

California law, it is not a "public utility" within the meaning of Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, and, therefore, is not entitled to exemption from The General Maximum Price Regulation promulgated by the Price Administrator, and that the latter committed no error in denying the petitioner's protest (R. 118).

In dissenting from the majority opinion (R. 119), Chief Judge Vinson emphatically held that petitioner's public warehouse is a business which is:

> "(1) affected with a public interest, and (2) bears an intimate connection with the processes of transportation and distribution, and (3) is under an obligation to afford its facilities to the public generally, upon demand, at fair and non-discriminatory rates, and (4) enjoys in a large measure an independence and freedom from economic competition brought about by the grant of a franchise from the state placing it in this position. In addition complainant has its rates fixed by an agency of the state, and it possesses many other customarily incidental features of public utilities.
>
> "Under these circumstances, complainant must be considered a public utility within the virtually universal significance of the term, and, thus, included within the meaning of the term as employed in the Price Act of 1942. Consequently, it should be held that complainant is entitled to the exemption as provided in Section 302(c), and that the General Maximum Price Regulation, Supplementary Regulation No. 11, and Amendment No. 1 thereto be set aside insofar as they purport to affect the complainant's charges concerned." (R. 144)

In concurring with the majority opinion of Judge Maris, Judge Magruder prefaced his opinion (R. 118) in the following language:

> "With some hesitation, I concur in the result reached by Judge Maris. This is one of those unfortunate cases where doubts would remain whichever way the case was decided.
>
> "Judge Vinson in his dissenting opinion has amply demonstrated that complainant has the characteristics of a 'public utility' within the connotation of that phrase in widespread usage. * * *"[7]

It is thus seen that a striking situation is presented by the opinions of the learned Judges of the lower court. We believe that this diversity of opinion can be traced directly to an erroneous approach to the problem.

Much of the discussion in the opinions is devoted to an abstract consideration of the nature of certain kinds of business enterprises. It is conceded by the majority opinion that great difficulty is faced in an effort to define the term "public utility". Judge Maris in the majority opinion states that (R. 115):

> "The data which we have considered do not disclose any clear criteria from which a precise definition of the phrase 'public utility' may be constructed".

He recognizes that (R. 116):

> "Among the data to be considered in determining the natural and ordinary meaning of 'public utility' is the manner in which the term has been used in *state legislation.*" (Emphasis supplied)

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7. Judge Maris concurred in the views expressed by Judge Magruder (R. 119).

Yet he is disposed to resort to (R. 116)

"the manuals used by the financial community".

Judge Magruder feels that Congress used the term "loosely and somewhat vaguely as comprehending the familiar and garden variety businesses which would immediately suggest themselves to the lay mind when the phrase 'public utility' is used * * *". (R. 119)

While Chief Judge Vinson, to a certain degree, indulges in a discussion of the definition of the term "public utility", nevertheless the marked difference between his approach to the problem and that of the majority members lies in the direct consideration and application of the facts presented by the record in this case. Judge Vinson adheres strictly to the fundamental rule that abstract questions have no place before appellate tribunals and will be disregarded. He confines his discussion to facts of record and finally points to statements in respondent's brief which, he says: "come close to committing him to an agreement that complainant's warehouse should be regarded as a public utility". (R. 144)

In this connection, we wish to direct the attention of this Court to the fact that respondent did not deny (R. 13) the material allegations in petitioner's complaint to the effect that petitioner is, and has at all times conducted its business as, a public utility and that its rates are, and always have been, subject to the jurisdiction and control of the Railroad Commission of the State of California. (R. 1 et. seq.) Furthermore, during the course of the oral argument had before the Emergency Court of Appeals, counsel for respondent conceded that the fact that peti-

tioner was a public utility under California law was not at issue.

The dissenting opinion rendered by Chief Judge Vinson should, we submit, be the majority opinion in this case, since it deals with the disputed questions upon a sound and logical basis. It is significant to note that in reluctantly concurring with Judge Maris' opinion, Judge Magruder concedes that Judge Vinson, in his dissenting opinion, "has amply demonstrated that complainant has the characteristics of a 'public utility' within the connotation of that phrase in widespread usage". (R. 118)

As we have pointed out above, the fundamental question here raised is: are the rates charged by petitioner subject to regulation by the respondent, or are they exempt from his regulation by virtue of the provisions of Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act? If the question, thus limited, is constantly borne in mind, there can be no room for an abstract discussion of points and problems which are unrelated to those presented by the record.

2. The Uncertainty of the Conclusions Expressed by the Two Judges Who Joined in the Majority Opinion.

Not only is there a diversity of opinion existing among the Judges of the Emergency Court, but an uncertainty is expressed by two of the Judges as to the correctness of the result reached by them in the majority opinion. It is the opinion of one Judge that petitioner is not exempt within the meaning of Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act; the opinion of another is exactly opposite, while that

of the third states that he is not sure that he is correct in concurring with the first Judge. Since the first Judge concurs in the views of the third Judge, the conclusion is properly drawn that the only Judge certain of his conclusions is the dissenting Judge.

Bearing in mind that the Emergency Court of Appeals is the only court which has jurisdiction to determine the validity of any regulation or order of respondent, Price Administrator (except for the right of review by this Court), it is not asking too much, we submit, that a question of such gravity and general importance as is here raised be decided with more certainty than as decided by that court.

B. The Writ Should Be Allowed Because the Emergency Court of Appeals Has Decided an Important Question of Federal Law Which Has Not Been, but Should Be, Settled by This Court.

In sub-paragraph 5(b) of Rule 38 of the Revised Rules of Court, it is indicated that this Court will review a case where a circuit court of appeals has decided an important question of Federal law which has not been, but should be, settled by this Court.

The protest (R. 19), as well as the Complaint (R. 12), were instituted by petitioner on behalf of itself and all other warehousemen in California who operate as public utilities in that State under the jurisdiction and control of the Railroad Commission of the State of California, pursuant to constitutional and statutory law of that State.

Petitioner has contended throughout this proceeding, and urges here, that it is in the "nature of a test case" to determine whether or not respondent has the authority

to regulate the rates charged by petitioner and such other public utility warehousemen in California for storage and warehousing and all other services incident thereto which they render to the public as public utilities under the laws of that State. It is in the "nature of a test case" because the outcome thereof will affect all other of such warehousemen alike and will be even more far reaching in that its outcome will determine whether respondent has power to regulate the rates and charges of common carriers and other public utilities throughout the nation which are not subject to maximum rate regulation by any existing Federal, State or Municipal authority.

It is respondent's position that Congress intended only to exempt the traditional utilities. As shown on page 4 of the petition herein, he has designated these traditional utilities to be (a) common carriers by rail, water, motor, pipe line, express and freight forwarder; and (b) electric, gas, light, heat or power, telephone, telegraph and water utilities.

Under this theory of exemption, respondent has concluded that the classes of common carriers and public utilities so exempted are excluded from his regulation throughout the nation, *regardless of whether or not such common carriers and public utilities are subject to regulation by existing Federal, State or municipal authorities.* For example, all of the exempted classes of common carriers and public utilities which operate within the State of Delaware (where they are not subject to State regulation) are exempt from his regulation and are free to increase their rates or charges without any regulatory restraint whatever.

In sharp conflict with this construction, petitioner contends that Congress intended that the exemption would only apply to the rates of those classes of common carriers or other public utilities which are subject to regulation by existing Federal, State or municipal authorities.

Petitioner respectfully submits that the issue thus raised presents a question of Federal law which is extremely important as well as novel and original and which has not been, but should be, settled by this Court.

C. The Writ Should be Allowed Because the Emergency Court of Appeals Has Decided a Question of General Importance Which Has Not Been, but Should be, Settled by This Court.

1. It Is Not, and Never Has Been; the Contention of Petitioner That the Application of the Exemption Clause in Question Was Made Dependent Upon State Laws. Petitioner Does Contend, However, That Its Application Is Made Dependent Upon Federal, State and Municipal Laws Which by Their Terms Subject the Rates Charged by Common Carriers or Other Public Utilities to Regulation.

In sub-paragraph 5 (c) of Rule 38 of the Revised Rules of Court, it is indicated that this Court will review a case where the United States Court of Appeals for the District of Columbia has decided a question of general importance which has not been, but should be, settled by this Court.

As heretofore noted, the theory of petitioner in this case is that the exemption clause contained in Section 302(d)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, applies only to the rates of common carriers or other public utilities which are subject to the jurisdiction and control of existing Federal,

State and municipal authorities. Judge Maris attacks this theory on the ground that it limits the scope of the application of the exemption clause and violates the principle that a Federal statute will, in the absence of language in the statute to indicate a contrary intent, be given a general and uniform application throughout the country. In support thereof, he cites the case of *Lyeth v. Hoey*.[8] (R. 111)

This has never been petitioner's contention. However, we have insisted that the application of the exemption was made dependent upon those Federal, State and municipal laws which regulate the rates of common carriers and other public utilities. It would be futile for any one to argue that any kind of a price control act could be designed for any purpose other than to effectuate complete control of prices everywhere within the federal jurisdiction. It, therefore, seems useless to discuss this abstract principle as such.

The fallacy in the use of this principle by respondent and the majority opinion lies in an apparent misconception of the ultimate aim of Congress in enacting the statute, and particularly those significant provisions under which the Price Administrator was deprived of the power to regulate certain rates. Since the fundamental purpose sought to be achieved by the Price Act is the prohibition against undue price rises to stem inflation, the conclusion is inescapable that the subject matter of the legislation was confined to regulation of prices, charges

8. 305 U. S. 188, 194.

and rates for the purpose of keeping down the cost of living to the public.

It is, therefore, significant that in creating certain exemptions outside the scope of the Act, Congress accomplished the exclusion by referring, not to business enterprises as such, but to the prices and rates charged by them. We believe that the failure of the majority opinion to adhere to this point has resulted in a departure from the path of true reasoning to a correct interpretation of the intent of the exemption clause in question. The point of the dispute between the parties to this proceeding has been confused by resort to an abstract discussion of generalities and definitions of terms rather than to the facts presented by the record.

It is not so much a question here of the definition of the term "public utility"; it is rather a question of "rates" and what Congress meant by the use of that particular word. Neither the elementary rules of statutory interpretation nor the historical background of judicial construction are particularly apposite to or helpful in the solution of this problem. We believe that the inquiry need go no further than a consideration of the circumstances under which the legislation was enacted, the purposes to be achieved thereby and the conception of those purposes in the minds of those who caused the statute to be written in the words in which it stands.

2. The Language Used in the Exemption Clause, as Amended, Expresses an Intention Which Is Perfectly Intelligible and Plain and There Is No Reason, Therefore, to Resort to Antecedent Legislative History in Aid of Construction. However, Even if That History Is Examined It Shows That Petitioner's Contention Is Correct.

The essential provisions of the exemption clause, as stated in Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, read as follows:

> "Nothing in this Act shall be construed to authorize the regulation of * * * rates charged by any common carrier or other public utility" * * * "Provided, That no common carrier or other public utility shall make any general increase in its rates or charges which were in effect on September 15, 1942, unless it first gives thirty days notice to the President, or such agency as he may designate, and consents to the timely intervention by such agency before the Federal, State, or municipal authority having jurisdiction to consider such increase."

These words are to be construed in their natural significance bearing in mind that the main purpose of the statute in which they are contained is to prevent inflationary price rises.[9] The proper and reasonable construction of these words is that if such common carriers or other public utilities are adequately regulated as to their rates and charges by an existing Federal, State or municipal authority, Congress did not intend them to be burdened with

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9. *Ozawa v. United States*, 260 U.S. 178, 194; *United States v. American Trucking Associations, Inc.*, 310 U.S. 534, 543.

further price control any more than it intended that the Price Administrator would, himself, be burdened with the duty of regulating them.

That language expresses an intention which is perfectly intelligible and plain, and we submit that, (under the rule that the intention of a statute must be sought primarily in the language of the statute itself), if the language employed expresses an intention reasonably intelligible and plain, it must be accepted without modification or resort to construction or conjecture[10] and that antecedent legislative history may not be looked to in aid of construction.[11]

In view of the plain and clear language employed by Congress in the clause under question, there is no reason to resort to antecedent legislative history. However, since this legislative history is discussed with particularity in the majority and dissenting opinions and is mentioned in the concurring opinion, we believe it appropriate that all of that legislative history be placed before this Court and, accordingly, have included it in Appendix "A", hereto attached.

A fair and logical analysis of the history of this legislation leads to one main conclusion with respect to the intent of the exemption clause. While the affirmative pro-

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10. *Thompson v. United States*, 246 U.S. 547; *Standard Fashion Company v. McGrane-Houston Company*, 258 U.S. 346; *Wilbur v. United States, ex rel. Vindicator Consolidated Gold Mining Company*, 284 U.S. 231; *United States v. Great Northern Railway Company*, 287 U.S. 144; *United States v. American Trucking Associations, Inc.*, 310 U.S. 534.

11. *Standard Fashion Company v. McGrane-Houston Company*, 258 U.S. 346; *United States v. American Trucking Associations, Inc.*, 310 U.S. 534.

visions of the Act embrace all prices, charges and rates throughout the country, there were, as appeared to Congress, certain rates as to which there was no necessity of control by the Price Administrator. *The question is, what were those rates?*

Congress specified these rates as those "charged by any common carrier or other public utility". Why did it exclude them? Obviously, for the good and sufficient reason that it appeared that by such exclusion there would be no danger of an encroachment on the anti-inflationary effort. It was pointed out by the Price Administrator, himself, that no such danger existed. He told Congress that it was unnecessary for him to control these rates because they were adequately controlled and regulated by other Governmental agencies—Federal, State and municipal. As he said, these agencies were the various utility commissions—those clothed with the statutory function and duty to regulate rates. For instance, in his correspondence with Senator Norris and in the Senator's own comments, the mention of these agencies was confined solely to public utility commissions.

So, when Congress came to define exempted rates, it could have had in mind only one kind of rates, namely, those which were under the supervision and control of the various public utility rate regulatory bodies. It was not concerned with all of the refinements of the definition of the term "public utility"; it was interested only in relieving the Price Administrator from the duty of controlling rates which were otherwise adequately controlled. Congress took the Price Administrator at his word. He plainly told them that he was perfectly satisfied with the

regulatory bodies and the statutory processes under which they functioned. He did not see fit to call attention to any distinction that he may have had in mind as between "traditional public utilities" and other classes of utilities. He led Congress to believe, as it has expressly declared in the exemption clause, that if the rates charged by any common carrier or other public utility are under the regulatory control of an existing Federal, State or municipal rate-making body, it would be unnecessary for him to have anything to do with those rates. *These are the circumstances which compel us to take the position in this case that, since the rates of this petitioner are and have always been under the jurisdiction and control of the Railroad Commission of the State of California, they are within the meaning and intent of the exemption clause.*

Inasmuch as the purpose sought to be achieved by the Price Act was to prevent inflationary price rises, it is clear that the language employed in Section 302(c)(2) showed an intent to exempt only the rates charged by such common carriers or other public utilities as were under regulation by existing regulatory agencies, Federal, State or municipal. However, if any doubt existed as to that conclusion with respect to the language used in Section 302(c)(2), it has been definitely and finally disposed of by the language employed in the proviso of Section 1 of the Inflation Act where Congress specifically refers to the regulation of the rates by "the Federal, State or municipal authority having jurisdiction to consider such increase".

By virtue of the adoption of the amendment, the issue raised in this proceeding was thereby effectually settled

in accordance with the contention which petitioner has persistently maintained.

The legislative history further shows that Senator Norris, ever the advocate of Governmental regulation of common carriers and public utilities, had developed in his mind an apprehension that the coverage of the Price Act was incomplete because he felt that the rates and charges of public utilities all over the country should be brought under the control of the Federal Government and that the exemption specified in Section 302(c)(2) of the Act should be abolished. Accordingly, he proposed an amendment to the Act which would have eliminated the exemption clause and would have provided that any rates charged by a common carrier or other public utility could not be increased after September 15, 1942, without the consent of the President.

In presenting this amendment to the Senate, Senator Norris read and discussed correspondence exchanged between him and the respondent relative to the question covered by his amendment. Respondent explained that he was attempting to keep close watch over applications for rate increases by public utilities in various parts of the country. He went on to say that he and his office were "proceeding in the belief that when Congress exempted these rates from our jurisdiction, it was implied that these Commissions would recognize that the dominant principle governing the fixing of all prices in wartime would be the Government's program to stabilize commodity prices and the cost of living and that the utility and railroad rate principles must be re-examined in the light of the Government's economic program, upon the success of

which depends both the winning of the war and the peace. Their recognition of this obligation will be an important step in the success of the Government's program to prevent further increases in the cost of living."

The Norris amendment was rejected by the Senate and, in lieu thereof, the amendment above quoted was adopted. At the time of its adoption Senator Brown, from the floor of the Senate, said:

> "There is substituted for it (the Norris amendment) a provision which will require any public utility which asks for an increase in rates to notify the President and to assent to the appearance of such agent as the President may designate to appear in behalf of the consuming public before the appropriate railroad or public utility commission, be it a State, Federal or municipal commission."

No system of concurrent jurisdiction was set up. Certain rates had been removed from under the Price Administrator's control in the Price Act. If there had been any uncertainty as to what these rates were intended to be, it was completely eliminated by the amendment which designated them as those which were under the jurisdiction and control of existing Federal, State or municipal agencies.

3. The Theory Adopted by the Majority Opinion Is Inconsistent With the Intent and Purpose of the Statute.

We have noted above that respondent contends that the exemption clause includes only those public utilities traditionally recognized as such, whether or not they are regulated by Federal, State or municipal agencies. The

majority opinion has adopted this theory which, we maintain, would lead to an impossible and absurd situation.

In denying petitioner's protest (R. 42), respondent pointed out that a warehouseman could not be a public utility within the meaning of the exemption clause, because while in some states he was regulated as such, in others he was not. He drew a distinction between warehousemen and his so-called "traditionally recognized utilities", i.e., water, power, telephone, heat, gas and light companies which, he implied, were almost universally regulated by State or local agencies.

In order to prevent confusion, petitioner has digested the statutes of every state in the country and has compiled statistics pertaining to the extent of the regulation exercised by the states over the major classes of common carriers and public utilities in order that a true comparison could be drawn between the traditionally recognized utilities as designated by the respondent, on the one hand, and public utility warehousemen, on the other. This analysis of the statutes in the several states[12] will show that out of the forty-eight states there is no existing regulation of railroads in one state, common carrier truck lines in 4 states, common carrier bus lines in one state, common carriers by vessel in 23 states, express common carriers in 2 states, pipe line common carriers in 24 states, electric utilities in

12. There is attached hereto as Appendix "B" a chart showing the extent to which the rates or charges of the major classes of common carriers or other public utilities are regulated by the several states of the United States. The provisions of the state laws which define these common carriers and public utilities and which subject them to such rate regulation are cited in Appendix "C" hereto attached.

7 states, gas utilities in 8 states, heat utilities in 20 states, telephone utilities in 2 states, telegraph utilities in 4 states, and water utilities in 8 states. Furthermore there is no rate regulation by the Interstate Commerce Commission or any other Governmental authority of common carriers by motor vehicle in the transportation of property in interstate or foreign commerce within the partially exempt zones as defined in Section 203(b)(8) of the Motor Carrier Act, 1935 (Part II of the Interstate Commerce Act).[13]

It must follow under respondent's theory of exemption, which has been sanctioned by the majority opinion of the Emergency Court of Appeals, that as to these unregulated utilities and common carriers, there is no regulatory restraint imposed upon them and they may increase their rates or charges at will.

The majority opinion states (R. 117):

> "Indeed, it may be said that the Emergency Price Control Act itself is a Congressional determination that, at least in war time, *every* business in the country is so affected with a public interest as to require statutory control of its prices." (Emphasis supplied.)

Petitioner quite agrees with that portion of the majority opinion, but hardly sees how there can be statutory control of the prices of *every* business in the country when, under the construction which that Court has placed on

13. Act Feb. 4, 1887, c. 104, Part II, §203, as added Act Aug. 9, 1935, c. 498, 49 Stat. 544 and amended Act June 23, 1938, c. 601, §1107 (j), 52 Stat. 1029; Act June 29, 1938, c. 811, §§2, 3, 52 Stat. 1237; Act Sept. 18, 1940, c. 722, Title I, §§16, 18, 54 Stat. 919–920; 49 U.S.C.A. §303(b)(8).

Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act, there is, and will be, no rate regulation by the Price Administrator, or anyone else, of the exempted classes of utilities where there is no existing regulation of them by Federal, State or municipal authorities.

4. Public Utility Warehousemen Are Regulated Extensively Throughout the United States and Are Entitled to Be Treated as Traditional Utilities to the Same Extent as the Common Carriers and Other Public Utilities Which Respondent Has Specifically Exempted.

In the majority opinion, it is stated (R. 116):

> "On the other hand only three states include all warehouses in their statutory definition of public utilities, while seven others include limited types of warehouses. Thirty-eight states and the District of Columbia do not define warehouses of any kind as public utilities * * *."

In reaching this conclusion, the majority opinion has accepted the statistics presented by respondent and has wholly ignored the statistics presented by petitioner which are shown in the chart attached hereto as Appendix "B". From our investigation of the state laws, we are convinced that California, Indiana, Minnesota and North Dakota exercise virtually complete control of the rates and charges of public utility warehousemen, while limited rate control thereof is exercised in Arkansas, Georgia, Idaho, Illinois, Iowa, Kansas, Maine, Missouri, Nebraska, Nevada, North Carolina, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wisconsin. In other words, out of the

forty-eight states, public utility warehousemen are regulated in twenty-two thereof. Seventeen of the twenty-two states regulate the rates of these public utility warehousemen by and through railroad, public utility or public service commissions, namely, Arkansas, California, Georgia, Idaho, Illinois, Indiana, Iowa, Maine, Minnesota, Nebraska, Nevada, North Dakota, South Dakota, Texas, Utah, Washington and Wisconsin.

If the test of a traditional utility is the scope of said regulation, respondent's "traditional utilities" stand on somewhat doubtful ground. There is a substantial array of states which, by failing to regulate them, might fairly be said to classify them with those public utilities which respondent says are not within the exemption clause.

Respondent's theory, as adopted by the majority opinion, defeats itself. According to that theory, the Price Administrator is without power to supervise certain rates, although they be entirely free from other regulation. The judgment in this case now determines that as to all so-called "traditional utilities" in Delaware and as to some of them in other states, rates may be increased at will and in disregard of the anti-inflation program.

Certainly, Congress had no such intention in mind. How could the cost of living be universally controlled if, in important sections of the nation, the common carriers and public utilities specifically exempted under the Price Administrator's regulation may make uncontrolled increases in rates? Yet, that is precisely what the majority opinion decides.

The theory behind that opinion has no foundation. The finding that the exclusion clause is limited to such an uncertain quantity as a traditionally recognized utility is meaningless. There are many peculiarities in Federal legislation, but, in our opinion, Congress has never assumed such an absurd position as created by the majority opinion of the Court.

5. In Enacting Section 302(c) of the Price Act, Congress Could Not Have Intended to Exempt the Rates Charged by Common Carriers in the Distribution of Commodities Unless it also Intended to Exempt the Rates Charged by Public Utility Warehousemen in the Storage of Commodities.

In the majority opinion, it is stated (R. 116):

> "Some light is thrown upon the question whether a public warehouseman is a public utility within the meaning of the act by the language of the act itself. As we have seen, the very section which contains the proviso exempting public utilities states that the term 'commodity' as used in the act 'includes services rendered * * * in connection with the * * * storage * * * of a commodity'. Here is definite indication that storage of commodities, the business of a public warehouseman, is intended to be covered by the act."

While the service of "storage" is one specified as within the price control features of the Act, this was only included to provide control by the Price Administrator over (a) private storage by manufacturers, distributors and shippers having their own warehouses for the warehousing of their own goods (the cost of which is an appreciable, unregulated part of the market price of the goods held under private storage and receiving pri-

vate warehouse storage service) and (b) commercial storage in those states in which a public warehouseman is not subject to maximum rate regulation as a public utility.

It is to be noted in Section 302(c) that the word "distribution" is used in the same sense as, and precedes the word "storage". The bulk of "distribution" services is rendered by common carriers just as the "bulk of storage services is rendered by public warehousemen".

If, in order to control the price of a commodity, respondent must have the complete power to control the charge for services rendered in the "storage" of that commodity, it would be equally important, under that section, that he have the complete power to control the charge for services rendered in the "distribution" thereof. However, Congress has seen fit to relieve respondent of the burden of regulating the charges of already regulated common carriers rendering services in the "distribution" of a commodity, just as it has, in our opinion, relieved him of the responsibility of regulating the charges of already regulated public utility warehousemen rendering services in the "storage" of a commodity. It is respectfully submitted, therefore, that Congress could not have intended to exempt one without exempting the other.

Since respondent has officially excluded the rates and charges of all common carriers from his regulations, it must follow that he lacks power to regulate the rates and charges of a common carrier in rendering services in the "distribution" of a commodity. This would be true, according to respondent's theory of exclusion, whether the

rates for distribution services by a common carrier are subject to maximum regulation by a Federal, State or municipal authority, or not.

A large part of this distribution service is rendered by common carriers by motor vehicle within the larger metropolitan areas throughout the country and it cannot be disputed that a considerable portion of this distribution traffic is moved in interstate or foreign commerce. Under the provisions of Section 203(b)(8) of the Motor Carrier Act, 1935 (Part II of Interstate Commerce Act),[14] it is provided (with respect to the jurisdiction of the Interstate Commerce Commission over motor carriers) as follows:

> "(b) Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of services of employees and safety of operation or standards of equipment, shall be construed to include * * * (8) The transportation of * * * property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point, without such municipality, municipalities, or zone, * * *."[15]

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14. Act Feb. 4, 1887, c. 104, Part II, §203, as added Act Aug. 9, 1935, c. 498, 49 Stat. 544 and amended Act June 23, 1938, c. 601, §1107 (j), 52 Stat. 1029, Act June 29, 1938, c. 811, §§2, 3, 52 Stat. 1237; Act Sept. 18, 1940, c. 722, Title I, §§16, 18, 54 Stat. 919, 920; 49 U.S.C.A. §303(b)(8).

15. Except where the transportation is under a common control, management, or arrangement for a continuous carriage or shipment, the Interstate Commerce Commission has no maximum rate jurisdiction over common carriers by motor vehicle within

In preventing inflation it is admitted to be important that the maximum rates and charges of a warehouseman for services rendered in the "storage" of a "commodity" be subject to regulation by some public authority. Our only difference with respondent in this respect is that we contend that such maximum rate regulation of public utility warehousemen is to be exercised by existing regulatory authorities, whereas it is his contention that he possesses power over all warehouse rates and charges irrespective of existing government control other than his own.

It is equally important and even imperative that the maximum rates and charges of common carriers by motor vehicle for services rendered in the "distribution" of a "commodity" be subject to regulation by some public authority. Yet, since *all* common carriers have been declared by respondent to be excluded from his regulatory powers, what rate restraint, may we ask, could be imposed upon these common carriers by motor vehicle which distribute commodities moving in interstate or foreign

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such municipality, contiguous municipalities or commercial zones. While this partial exemption is fully effective without the requirement of the definition by the Commission of the boundaries of commercial zones some have actually been defined by it in the following communities: *Chicago, Illinois, Commercial Zone*, 1 M.C.C. (Interstate Commerce Commission Reports, Motor Carrier Cases) 673; *Boston, Mass., Commercial Zone*, 31 M.C.C. 405; *Cincinnati, Ohio, Commercial Zone*, 26 M.C.C. 49, 41 M.C.C. 227; *Kansas City, Mo.-Kansas City, Kans., Commercial Zone*, 31 M.C.C. 5; *Los Angeles, California, Commercial Zone*, 3 M.C.C. 248; *New York, N. Y., Commercial Zone*, 1 M.C.C. 665; 2 M.C.C. 191; *Philadelphia, Pennsylvania, Commercial Zone*, 17 M.C.C. 533; *St. Louis, Missouri-East St. Louis, Illinois, Commercial Zone*, 1 M.C.C. 656; 2 M.C.C. 285, and *Washington, D. C., Commercial Zone*, 3 M.C.C. 243.

commerce "within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities"?

The answer is plain that, if respondent's theory is correct, common carriers performing this type of service would be under no rate regulation whatever except where the laws of a state might empower it to prescribe maximum rates of common carriers operating in interstate or foreign commerce within such a municipality, municipalities or commercial zones. This bears out as forcibly as anything else that we could say that it was the intention of Congress that the rates and charges of common carriers would be excluded from respondent's regulations to the extent, and only to the extent, that they are under maximum rate jurisdiction of existing Federal, State and municipal authorities.

Chief Judge Vinson has recognized the soundness of petitioner's position in this regard, as evidenced by the following statement appearing in his dissenting opinion. (R. 143):

> "The respondent argues that the definition of 'commodity' in Section 302(a) to include services rendered 'in connection with the processing, *distribution, storage,* . . . of a commodity' (Italics supplied) expressly includes warehouses. But complainant has aptly pointed out that if this be so, railroads would also be included in the Price Administrator's control as they engage in the business of 'distribution' of commodities. It is true that certain storage facilities are subject to the controls of the Price Administrator,

but when a storage enterprise is conducted as a public utility, it falls within the provided exemption, which is dominant and controlling."

We respectfully submit that from the foregoing a question of gravity and general importance is raised in this proceeding which has not been, but should be, settled by this Court.

D. The Writ Should Be Allowed Because the Emergency Court of Appeals Has Not Given Proper Effect to Applicable Decisions of This Court.

In sub-paragraph 5(c) of Rule 38 of the Revised Rules of Court, it is indicated that this Court will review a case where the United States Court of Appeals for the District of Columbia has not given proper effect to an applicable decision of this Court.

The majority opinion of the Emergency Court of Appeals holds that while petitioner may be a public utility under California law, it is not a public utility within the meaning of Section 302(c)(2) of the Price Act as amended by the proviso of Section 1 of the Inflation Act.

Petitioner has nowhere contended, nor does it contend here, that the case of *Munn v. Illinois*[16] specifically held that a public warehouseman was a public utility, but this Court did say in that case that a public warehouseman was engaged in a business which the public interest de-

16. 94 U.S. 113.

mands "ought to be under public regulation."[17]

It is significant to note, however, the statement of Chief Judge Vinson (R. 132) that "The *Munn* case has frequently been the only citation offered in support of a proposition of law relating to *public utility* regulation" (Citing *Producers Trans. Co. v. Railroad Comm. of Calif.*, 251 U.S. 228, 231; *Terminal Taxicab Co. v. District of Columbia*, 241 U.S. 252, 254; also in *City of Phoenix v. Kasun*, 54 Ariz. 470, 97 P.(2d) 211, 212).

In *Budd v. New York*,[18] this Court said:

> "• • • the business of elevating grain is a business charged with a public interest, and those who carry it on occupy a relation to the community *analogous to that of common carriers.* The elevator owner, in fact, retains the grain in his custody for an appreciable period of time, because he receives it into his custody, weighs it, and then discharges it, and *his employment is thus analogous to that of a warehouseman.*" (Emphasis supplied.)

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17. 94 U.S. 113, 132. See *Nebbia v. New York*, 291 U.S. 502 at 533, where this Court, in discussing the *Munn* case, had this to say:

> "The true interpretation of the court's language is claimed to be that only property voluntarily devoted to a known public use is subject to regulation as to rates. But obviously Munn and Scott had not voluntarily dedicated their business (referring to their business of a public warehouseman) to a public use. They intended only to conduct it as private citizens, and they insisted that they had done nothing which gave the public an interest in their transaction or conferred any right of regulation. The statement that one has dedicated his property to a public use is, therefore, merely another way of saying that if one embarks in a business which public interest demands shall be regulated, he must know regulation will ensue."

18. 143 U.S. 517, 544.

While it is true that neither of these cases specifically characterizes public warehousemen as public utilities, nevertheless they were classified within the same general classification as common carriers, and the majority opinion of the Emergency Court of Appeals has given no weight to the reasoning and conclusions reached in those cases which we believe to be controlling in this case.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that a writ of certiorari should issue.

Dated at San Francisco, California, June 19, 1943.

REGINALD L. VAUGHAN,
Counsel for Petitioner.

Appendix "A"

EXCERPTS TAKEN FROM HOUSE AND SENATE COMMITTEE HEARINGS AND THE CONGRESSIONAL RECORD WITH RESPECT TO THE PASSAGE OF SECTION 302(c)(2) OF THE EMERGENCY PRICE CONTROL ACT OF 1942.

Excerpts From Hearings Before the Committee on Banking and Currency of the House of Representatives, Part I, Held on August 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, September 17, 18, 22, 23, 25, 1941.

pp. 54, 55

"Mr. Henderson. * * * Now, as to the utilities. There is, as the members are aware, an adequate set of regulations as to the charges which utility companies can make. These, again, are based upon a long series of judicial determinations, of State regulations, and of State laws. It seemed to those drafting the bill that this was an area which was not likely to give difficulty or to cause, so far as they could see at that time, any inflationary trend. The bill is designed to control an emergency inflationary situation and has left them out, just as it has transportation rates. There are questions peculiar to utilities and none of them, so far as I see at the present time, would make necessary further regulation by means of price-control bill."

p. 144

"Mr. Henderson. * * * I do not regard it necessary to include in a price bill all the elements such as utility

costs, interest charges, transportation costs, personal services, but I am not unmindful that unless they are kept within bounds it would be impossible to prevent inflation."

pp. 444-445

"Mr. Crawford: Now, the British Treasury's White Book says that—

> The chancellor explained that this policy of restricting increases in prices would also be expanded to cover transportation charges, the prices of coal and gas, the electricity charges, and the prices of other articles in common use.

Now, why does this bill not consider these other items, and why do you say, on page 144, that—

> I do not regard it necessary to include in a price bill all the elements such as utility costs, interest charges, transportation costs, personal services * * *?

In other words, how can you arrive at an exact cost or ceiling price and leave out these cost elements?

Mr. Henderson. I did not mean to intimate that you should not consider them, because I think that the nature of the testimony shows that we have taken interest in all of those, and have considered them. But as to bringing them within a price-control bill, I said that transportation was under regulation already by an existing agency, that interest rates were the object of regular departmental consideration, and public utilities were under what for the time being at least seemed to be an adequate system of State regulation, and therefore did not need to be brought into review.

In England they do not have state regulation of utilities and the like.

Mr. Crawford. Is it not your understanding that in this White Paper that has been issued, the Chancelor indicates that, based upon their experience, we will say their successes and their failures in administering price controls, it was desirable now to extend their activities to cover transportation charges, the price of coal and gas, and the cost of electricity and other things in common use? In other words, I got the distinct impression that their experience now brings them to a point where they feel that they must necessarily include these elements in establishing the price ceilings or whatever they call them there.

Mr. Henderson. And I think that we would have to do the same thing in determining our price ceilings.

Mr. Crawford. And your method will be to induce, if possible, these other agencies of Government who have jurisdiction to collaborate with you to a point where those costs will be made to conform to your price?

Mr. Henderson. In general, yes; but what I said before was that I have found that every one of the agencies charged with these particular items of cost are just as earnest as we are about keeping those costs down. Take what the Maritime Commission has done recently on charter rates. I think that it relieved a very heavy burden on the cost of foreign products coming in by way of import.

Mr. Crawford. I agree with you on that. I think it helped tremendously."

p. 626

"Mr. Patman. I do not care for an extended answer, unless you think it is necessary to give it.

You include in this bill metals, chemicals, durable goods, and agricultural products, and you also include services in the bill except, of course, that it does not apply to wages and salaries paid by an employer to an employee; but otherwise services are included. But it does not include transportation or utility rates .

Mr. Henderson. No.

Mr. Patman: That is quite a large item, and you said, as I understood you, that you were satisfied with the rate-making bodies in the States, and that that was the reason you did not ask that utility and transportation rates be included.

Do I understand that correctly?

Mr. Henderson. I did not mean to limit it to existing regulatory mechanisms both in transportation and utilities.

What I said was that the transportation rates themselves were already under regulation by Federal and State agencies, and I also feel that that is not an item, even in the absence of that regulation, to be brought under commodity price regulation."

Excerpts from Hearings Held Before the Committee on Banking and Currency Before the United States Senate Held on December 9, 10, 11, 12, 15, 16 and 17, 1941.

p. 122.

"Senator Barkley. Garage Services Act? Does that include garages?

Mr. Ginsburg. Yes, sir; it includes garages; I referred, however, to the British Goods and Services Act.

Senator Brown. That is where labor is a very large factor in price.

Mr. Ginsburg. That is right.

Mr. Henderson. Warehousing.

Senator Brown. Is that in the House bill?

Mr. Henderson. Yes.

* * * *

Senator Taft. I do not object to fixing lawyers' fees, but I suppose this would permit fixing lawyers' fees?

Mr. Ginsburg. No.

Mr. Henderson. No.

Senator Taft. Why not?

Mr. Ginsburg. The lawyer does not operate a service establishment.

Senator Taft. I know. It is service rendered in connection with the processing, distributing, storage. Surely he may charge for legal services in connection with storage of stuff or legal advice as to running a warehouse. Why, certainly.

Mr. Ginsburg. When we submitted the bill to the House we said expressly it was not included. Now, if it is, then we are perfectly willing to see that it is excluded."

Excerpts From the Congressional Record

Vol. 87, No. 209, p. 9308 (November 24, 1941) House of Representatives.

"Mr. Stegall. The bill also provides explicitly in section 302(c) that nothing in the act is to be construed to authorize the regulation of compensation paid by an employer to any of his employees, or the regulation of rates charged by any common carrier, or other public

utility, which are usually subject to adequate control by State or other Federal agencies. In cases of conflict between State regulation of enterprise of a non-public-utility character and Federal regulation under this bill, the Federal regulation would, of course, prevail."

Vol. 87, No. 211, pp. 9394-9395—(November 26, 1941)—House of Representatives.

"Mr. Spence. Mr. Chairman, this is too big a question to approach it with personalities being predominant. It is a question of the greatest moment to the people of America. Irrespective of who the administrator is I do not think we should impose upon him these duties which cannot be administered by him, and which are highly technical, and which can be administered intelligently only after great study and investigation. There are commissions regulating public service corporation rates in the cities, there are commissions regulating rates in the States, and there are the various Federal regulatory commissions. All those regulatory bodies would be destroyed, they have been developed through the years, under laws which have had constant consideration and development. The lawbooks are full of decisions on the subject. All these things would be destroyed by this one section of the bill, and the judgment, the ipse dixit of one man would take their place."

Vol. 88, No. 3, p. 77—(January 7, 1942)—Senate.

"Mr. Bailey. I know that we shall have to vote for the bill. The bill will pass, and probably a great many like it. I am not raising a question about that; but does the bill authorize the Administrator to fix all prices?

Mr. Brown: I should say generally that it does. A number of classes of prices are specifically exempted, the most important of which are railroad rates, public-utility rates, prices of newspapers, and periodicals, but, generally speaking, I think we may say that the bill authorizes the Administrator to operate on all commodity prices."

Vol. 88, No. 155, pp. 7343-7346—(September 10, 1942)—Senate.

CONTROL OF UTILITY RATES AND COMMODITY PRICES

The Senate resumed the consideration of legislative business.

Mr. Norris. Mr. President, it seems to me that it is worth our while to call the attention of the country and of the Senate to what I believe to be an important and material necessity in connection with the control-of-prices program upon which the Government has engaged. We passed the price-control bill and set up a Price Administrator and gave him certain powers. In my humble opinion, he cannot successfully cope with the thousands of dilemmas and predicaments which present themselves to him, and he cannot have any effect upon the control of prices unless he is given control of all prices, including all that affect our cost of living.

In the act creating the Office of Price Administrator we specifically excluded from his control all regulation of public-utility rates, such as telephone, gas, water, and electric rates, streetcar fares, and so forth. It was natural that such an exclusion should be made because the regulation of all such rates is provided for and controlled by various boards and commissions. Yet I fear that the handicap

which that exclusion has placed upon the Price Administrator may have a disastrous effect upon his attempt to prevent runaway prices and a consequent increase in the cost of living, with resultant inflation, which all of us want to prevent.

I have a short correspondence with the Price Administrator; and I think I can best illustrate it by reading my letter to him and his reply.

On August 11 I wrote the Price Administrator as follows:

> MY DEAR MR. ADMINISTRATOR: I have given some study to the various attempts of the utility companies—gas, telephone, and electric—to increase rates and to make application in the various States to the proper commissions for such increases.
>
> These attempts have increased recently, and I understand several States in the Middle West have allowed these increases. In other States applications have been made and are now pending. My recollection is that you participated in some of the hearings on such a petition, and late in June a release was given by your office in which the public was informed that you had asked to intervene where an application for an increase of electric rates was pending before the Maine Public Utilities Commission at Bangor.
>
> I am of the opinion that these attempts to increase rates have been influenced to some extent at least by the general belief that the pending bill in Congress would increase the taxes on these utility companies. In the Maine case your petition of intervention alleged that if these rates were increased over the country indiscriminately the result would be that your work in stabilizing prices would be greatly interfered with, and that the result would be the

"hoarding, manipulation, speculation, and other disruptive practices resulting from abnormal market conditions and scarcities caused by or contributing to the national emergency."

You alleged that such increases made because of the increased Federal taxes "would be contrary to the intention of the Congress, inflationary in character, and adversely affect the program and policies of the Office of Price Administration to stabilize prices."

I am interested in this subject because I believe that a general increase in utility rates, where it is not clearly shown that such an increase is necessary in the public interest, would not only be inflationary but would affect the program and policies of your organization and would make it practically impossible for you to stabilize prices.

The purpose of this letter is to ascertain, if possible, to what extent applications for such increases are coming in from over the country generally, and, if they are coming in, what you are doing about the matter, and what you are able to do to prevent such increases.

It seems to me this subject is very important at this time because of the pending tax bill before the Finance Committee of the Senate. It is very possible that some legislation on this subject should be included in this proposal before it is enacted into law.

Your early reply will be appreciated.

Very truly yours,

G. W. NORRIS.

On August 19 Mr. Henderson answered that letter as follows, his letter being directed to me:

I was greatly interested in your letter of August 11 on the problem of utility rates and the program of

this office and the National Government to stabilize commodity prices and the cost of living. The problem has been given special attention by this Office in recent weeks and I shall be happy to supply you with information about our activities in that field and "to aid you in ascertaining to what extent applications for such increase are coming in from over the country generally and, if they are coming in, what we are doing about the matter, and what we are able to do to prevent such increases."

As you know, the Emergency Price Control Act exempts utilities and common-carrier rates and we are without power to fix such rates and charges. Nevertheless, we have deemed it necessary to participate in rate-regulatory proceedings in our effort, not altogether unsuccessful thus far, to prevent increases in conflict with our basic program.

Let me refer briefly to some of the specific cases and problems we have recently encountered in this field. In April our attention was called to the 15-percent increase in telephone rates made by the Northwestern Bell Telephone Co. in the State of Iowa. This increase, termed a surcharge by the company, was imposed on nearly all exchange and intra-State toll service. No regulatory agency whose permission must be first obtained for such rate increase in Iowa is provided for by the laws of that State. After obtaining the technical assistance of the Federal Communications Commission, we called the company in conference and requested it to withdraw this increase as it appeared that the higher rates were imposed in large part to effect estimated higher Federal income taxes. The company agreed to this request and subsequently withdrew a request for a rate increase of about the same character pending

before the North Dakota commission, although it had earlier obtained the approval of the South Dakota commission for a similar increase in rates.

We are attempting to keep a close watch over other telephone rate increase applications in various parts of the country. The American Telephone & Telegraph Co. has furnished us with a list of all such applications which have been made by its associated companies. I am glad to say that there are now relatively few such applications pending.

A somewhat more difficult problem with respect to telephone rates is presented in connection with the rates charged by the independent telephone companies because of their large number. We recently met with the executive committee of the United States Independent Telephone Association and explained our program to them. To the extent of our ability, we propose to scrutinize their requests for increases and participate in as many cases as possible.

Because of your lifelong effort to protect the public in their relations with the electric light and power industry, you may be especially interested in our work in the electric rate field. It is true, as you suggest, we filed a petition for intervention in the Bangor Hydro-Electric rate case before the Maine Public Utility Commission. There, too, it appeared that the increase requested was because of projected higher Federal income taxes. Moreover, we were advised by certain paper companies, customers of the electric company, that if the power rate increase was approved, they would seek to have our maximum prices on paper and pulp increased. While conferences were pending with respect to the date of hearing, the company withdrew its application for an increase.

Mr. President, that illustrates how the control of public utility rates has a direct bearing on the cost of living and, therefore, on the question of inflation.

The rates we pay for water, gas, telephone, and for electric light and power are all directly and properly chargeable to the cost of living. They relate to the necessities of life. In the aggregate, spread over the country, they amount to many hundreds of millions of dollars. Yet, Mr. Henderson has no power to fix such rates. I am not complaining that he does not have the power. Later I shall ask permission to introduce a bill which I believe will cover the situation. All public-utility rates are regulated by commissions somewhere, either State or national. The Maine case illustrates how Mr. Henderson, while he had no right to reject the application made by the utility for a higher rate, did want to appear and show the Commission that if it allowed the increase requested the prices he had fixed in Maine would all be knocked into a cocked hat. While he could not fix a rate for electricity, if the Commission, which had the power to do so, should increase the rate it would put out of joint every ceiling he had made for commodities in Maine. He was informed, as he states in his letter, that the pulp company bought a great deal of electricity, and that if the rates which it had to pay for electricity in the manufacture of wood pulp for newspapers should be increased, it would have to charge more for its product, which would start an endless chain and result in inflation and ruin.

I continue with the letter:

> At the request of the Rural Electrification Administration, we participated in conferences with respect

to a proposed increase in rates for electric energy sold by an electric company to a rural cooperative. Subsequently the company withdrew its request for higher rates.

In this instance a rural electric cooperative, supplying its customers with electricity, bought its current at wholesale from a private company. The private company notified the cooperative that it would have to increase the rates. If that were done, it would probably follow that an increase of rates would take place among all the members of the cooperative organization. Hence the cost of living would climb and the danger of inflation would stare us in the face.

Mr. Henderson continues:

> Among other power rate cases now receiving our attention is the Niagara Falls Power Co. case before the New York Public Service Commission. In another, the Pennsylvania Power & Light Co. is seeking increases before the Pennsylvania Public Utilities Commission applicable to its commercial and industrial customers. We will probably seek to intervene in this case also.

At first blush one might think that Mr. Henderson should keep out, because the statute creating his office specifically states that he shall not have the power to fix utility rates. Yet he has proceeded on the theory that, even though he lacks the power, it is his duty, as he wishes to prevent inflation and to preserve the cost of living at a reasonable rate, to appear before various commissions and protest against increases in rates, because such in-

creases would put out of joint every price which he has fixed.

Mr. Henderson says further:

> Our survey of pending electric rate cases does not now indicate a large number of applications for rate increases. However, there is now an upward trend in the number of requests for rate increases before the State commissions which seems to be due primarily to efforts to shift war taxes upon the utilities to their consumers.
>
> The gas-rate problem appears to be more troublesome at this time. Among the cities where increases have recently been made or now pending are Boston, Philadelphia, Cleveland, Minneapolis, and Washington, D. C.

I call attention to Washington because I understand that yesterday certain action was taken, to which I shall refer when I finish reading this letter, and that the Public Utilities Commission of the District of Columbia will meet tomorrow to give further consideration to the subject.

I continue with the reading of the letter:

> We are now or will oppose most of these increases, particularly because they adversely affect the cost of living of practically the entire population of those cities.
>
> The relationship of taxes to utility rates is extremely important in devising and administering a proper program to control prices and the cost of living. In peacetime the principle that a utility is entitled to a fair return after allowance of all Federal income tax has been generally accepted. As an essential war measure, however, we propose to oppose the

application of this principle to any request which would contemplate an increase in rates predicated upon the allowance of anything over and above the normal Federal income tax. Higher rates predicated upon increased Federal taxes would obviously be contrary to the intention of Congress, be inflationary in character, and adversely affect our program to prevent further increases in the cost of living.

In our work in this field we have sought to cooperate with the existing regulatory agencies. Both the Federal Power and the Communications Commissions have gladly made available the advice and help of their technical experts.

I am glad to state that our right to intervene and participate seems to be readily conceded in these cases before the Federal and State utility commissions. However, one commission, that in the State of Illinois, has not yet acted upon our request for intervention. This is a proceeding involving streetcar fares in the city of Chicago. Of course we have no desire to interfere with the efforts of the State or Federal commissions under their respective statutes to reduce rates whenever found necessary.

In seeking to cooperate with the existing regulatory agencies in the utility and railroad rate fields, we are proceeding in the belief that when Congress exempted these rates from our jurisdiction, it was implied that these Commissions would recognize that the dominant principle governing the fixing of all prices in wartime would be the Government's program to stabilize commodity prices and the cost of living and that the utility and railroad rate principles must be reexamined in the light of the Government's economic program, upon the success of which depends both the winning of the war and the

peace. Their recognition of this obligation will be an important step in the success of the Government's program to prevent further increases in the cost of living.

Therefore, while I hope there will be no need for additional legislation in this field, serious consideration must be given to the practice in Canada where the consent of the price board, which administers an over-all program, as well as that of the existing regulatory authorities, is a prerequisite to utility rate increases. Certainly it should be understood without additional legislation that Federal income taxes shall be borne by those upon whom such taxes should be levied. A different policy would seriously impair, if not destroy, the basic efforts of the Government to stop inflation.

We appreciate very much your interest in this phase of our work. If we can furnish you with any additional data or information on it, please do not hesitate to call upon us.

Sincerely,

LEON HENDERSON,
Administrator.

Mr. President, Mr. Henderson mentions one place where he made an effort to prevent increasing gas rates, namely, in the city of Washington. I think it would not be unfair to say that, figuratively speaking, when Mr. Henderson's representatives appeared before the Utilities Commission here they were politely shown the door. It is true Mr. Henderson has no authority to fix gas rates in the city of Washington, but, as I have said, his representatives were there for the purpose of trying to convince the Commission that an increase in gas rates in the city of Washing-

ton meant that all the prices which he had fixed, after investigation, expense, and time, would all be knocked into a cocked hat. As I read the reports in the newspapers, I do not think that the representatives of the Price Administrator were treated with very great respect.

Mr. President, Mr. Henderson stated in his letter that he did not think that additional legislation was necessary. If he encounters cases of the kind I have mentioned, however, as he is likely to do in many places, the law will have to be changed, it seems to me, because if we are going to control the cost of living, if we are going to prevent inflation—and I believe Congress is practically unanimous in the desire to prevent it—the Price Administrator must have jurisdiction over everything that goes into the cost of living. If he does not have such jurisdiction, no matter how earnest and honest or efficiently he may try to perform the duties of his office, he will meet with failure. I think what is going on right now in this city is an illustration. I do not think he ought to have authority or jurisdiction to control gas rates specifically; but, at least, we ought to go as far as Canada has gone.

I have talked with several representative Canadians, and I understand from them that the Canadian law is working well. They said they did not see how conditions in Canada in this respect could be improved. In that country one commission has over-all jurisdiction and is given the right to say that no other commission anywhere in the Government shall increase commodity rates without its consent.

Mr. President, I have prepared a bill which I think will accomplish that result. It provides that no utility rate

shall be raised without the consent of the Price Administrator. Such a provision seems to me to be essential. If we are going to prevent inflation by the control of prices—and no one questions that that is what we are trying to do—then the man or the commission that controls prices must have jurisdiction over every price that goes into the cost of living.

Everyone knows that what the ordinary householder pays for gas or electric lights or for water goes directly into the cost of living. It cannot go anywhere else; it must go and does go there. If such rates are increased, the cost of living goes up; and if the householder is a wage earner, he has a right to say, "My cost of living has gone up; the utility companies have increased the price of gas, of water, of electric light, of streetcar fare, and I cannot live on my wages, which have been fixed." I think wages must be fixed before we can be successful in our attempt to prevent inflation; but in order that utility rates all over the country may not be increased, unless there can be a showing of absolute necessity made, somebody ought to have the right to prevent such increases, and I do not know who could better do that than the Price Administrator.

Mr. President, I have referred to the Utilities Commission in Washington, which tomorrow is going to take up the question whether or not they shall allow the gas company to increase the price of gas to practically every household in the great city of Washington. That action was not taken by unanimous vote of the Commission. The Commission consists of three men, and there was one

member who through it all stood out against any such proceeding. Regardless, however, of motives—and it may be that they are moved by motives that are perfectly honorable and honest—everybody in the great struggle in which we are now engaged must sacrifice something; the poor and the rich, the millionaire and the pauper must all sacrifice in accordance with their ability to sacrifice, and it would, it seems to me, be inviting failure in our effort to prevent inflation if the Price Administrator had no power whatever over public-utility rates, which, as everybody knows, go into the cost of living.

It will be hard, perhaps, in a great many cases, although I think in some it will be easy, for public utilities to pay increased taxes, but they must take the money out of their stockholders' profits and not out of the consumer. I think a great many of them are so patriotic that they do not want to stand in the way of preventing inflation, which Mr. Henderson is seeking to do. I believe that many of the applications for increased rates were withdrawn, as Mr. Henderson's letter indicates, because of the patriotism of the men and the corporations that had made the applications. The commissions before whom they have appeared have almost universally said, "While we can say that he does not have jurisdiction in this matter, yet our action has definite application to the question of inflation and has definite application to the prices which Mr. Henderson must fix, and the ceilings he must erect, if he is going to prevent inflation."

Therefore, it seems to me, that there ought to be a law which would give him that further jurisdiction, as a matter of prevention, and to guard against action by some

utility commission that may not be imbued by the proper spirit or may be moved to allow increases in public utility rates; which, in the most part, have been made, I think beyond question, with the idea that Congress was about to pass a tax law which would increase the taxes on everybody, and the utilities were getting ready to pass the tax on to their consumers and thus have a direct effect upon the work of the Price Administrator and often bring it to naught.

Mr. President, I ask unanimous consent, therefore, to introduce the bill which I have mentioned which provides—

> That rates charged by any common carrier or other public utility shall not be increased without the consent of the Price Administrator.
>
> * * * * *

On September 30 (legislative day, September 21), 1942, the Norris amendment was included in H. R. 7565, reading as follows:

> "Provided, That rates charged by any common carrier or other public utility on September 15, 1942, shall not be increased without the consent of the President: Provided further, That nothing in this section shall be construed as affecting the *power or authority of any Federal, State, or municipal authority or agency to reduce prices, rates or charges subject to its jurisdiction*, or to equalize the rates and charges of common carriers." (Emphasis supplied)

The Norris amendment was rejected by the Senate as shown by the Senate proceedings held on October 2, 1942, Volume 88, No. 168, pp. 7970, 7971.

> "Mr. Brown. Mr. President, section 1 of the conference report follows section 1 of the Senate bill; in

fact. I can say that very generally the conferees adopted the Senate bill with some slight modifications. The principal change in section 1 is that the Norris amendment which gave the President an all-over control of public-utility and common-carrier rates is stricken from the bill. *There is substituted for it a provision which will require any public utility which asks for an increase in rates to notify the President and to assent to the appearance of such agent as the President may designate to appear in behalf of the consuming public before the appropriate railroad or public utility commission, be it a State, Federal, or municipal commission.*

Mr. Norris. Mr. President, will the Senator yield?

Mr. Brown. I yield.

Mr. Norris. Let me ask how much notice must be given.

Mr. Brown. Thirty days' notice, as I recall, must be given to the President and consent must be filed to the appearance of the agent of the President in behalf of the *consuming* public.

Mr. Connally. Mr. President, will the Senator yield?

Mr. Brown. I yield.

Mr. Connally. *Does that also apply to railway rates, truck rates, and bus rates?*

Mr. Brown. *Yes; to all public-utility rates.*

Mr. President, let me say that in addition to what is contained in the bill, I have stated, on authority of the chairman of the Senate Banking and Currency Committee, that the committee would consider the bill which has been referred to it and which was introduced by the senior Senator from Nebraska (Mr. Norris) covering the same subject matter; and it is expected that early next week that matter may be taken up in the committee.

It was felt by the House conferees that inadequate consideration had been given to the general subject matter, and they were unwilling to accept the Senate amendment. They were unanimous in their views; and it was impossible for us to persuade them to accept the Norris amendment. However, the conferees did make the arrangement which I have indicated and which was entered into after some consultation with the senior Senator from Nebraska. We told him we thought this was the best we could get on this subject matter." (Emphasis supplied)

Appendix "B"

CHART SHOWING THE EXTENT TO WHICH THE RATES OR CHARGES OF THE CLASSES OF COMMON CARRIERS AND OTHER PUBLIC UTILITIES SHOWN ARE REGULATED BY THE SEVERAL STATES OF THE UNITED STATES.

Note: The symbol "X" is used to denote that such regulation exists. The provisions of the state laws which define these common carriers and public utilities and which subject them to such rate regulation are cited in Appendix "C" which follows.

STATE	Railroad	Common Carrier Truck (Freight)	Common Carrier Bus (Passenger)	Vessel	Express	Pipe Line	Electric	Gas	Heat	Telephone	Telegraph	Water	Wharfinger	Warehouseman
Alabama	X	X	X	X	X		X	X	X	X	X	X	X	
Arizona	X	X	X		X		X	X	X	X	X	X		
Arkansas	X	X	X	X	X	X	X	X	X	X	X	X		X[1]
California	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Colorado	X	X	X		X	X	X	X		X	X	X		
Connecticut	X	X	X		X		X	X		X	X	X		
Delaware (no regulation)														
Florida	X	X	X	X	X					X	X			
Georgia	X	X	X		X		X	X		X	X	X	X	X[2]
Idaho	X	X	X	X	X	X	X	X		X	X	X	X	X[11]
Illinois	X		X	X	X	X	X	X	X	X	X	X	X	X[3]
Indiana	X	X	X				X		X	X	X	X		X
Iowa	X	X	X		X									X[4]
Kansas	X	X	X		X	X	X	X	X	X	X	X		X[3]
Kentucky	X	X	X	X	X	X	X	X		X	X	X		
Louisiana	X	X	X	X	X	X	X	X	X	X	X	X		
Maine	X	X	X	X	X		X	X	X	X	X	X	X	X[11]
Maryland	X	X	X	X	X		X	X	X	X	X	X		
Massachusetts	X	X	X	X	X		X	X		X	X	X		
Michigan	X	X	X	X	X	X	X	X		X	X			
Minnesota	X	X	X		X					X				X
Mississippi	X	X	X		X					X	X			
Missouri	X	X	X	X	X		X	X	X	X	X	X		X[3]
Montana	X	X	X		X	X	X	X	X	X	X	X		
Nebraska	X	X	X	X	X	X				X	X	X[5]		X[3]
Nevada	X	X	X		X		X	X	X	X	X	X		X[9]
New Hampshire	X		X	X	X		X	X	X	X	X	X		
New Jersey	X		X		X	X	X	X	X	X	X	X		
New Mexico	X	X	X		X	X	X	X		X	X			
New York	X	X	X	X	X		X	X	X	X	X	X		
North Carolina	X	X	X	X	X	X	X	X	X	X	X	X		X[6]

Louisiana	X	X	X	X	X	X	X	X	X	X	X	X		
Maine	X	X	X	X	X		X	X	X	X	X	X	X	X[11]
Maryland	X	X	X	X	X		X	X	X	X	X	X		
Massachusetts	X	X	X	X	X		X	X		X	X	X		
Michigan	X	X	X	X	X	X	X	X		X	X			
Minnesota	X	X	X		X					X				X
Mississippi	X	X	X		X					X	X			
Missouri	X	X	X	X	X		X	X	X	X	X	X		X[3]
Montana	X	X	X		X	X	X	X	X	X	X	X		
Nebraska	X	X	X	X	X	X				X	X	X[5]		X[3]
Nevada	X	X	X		X		X	X	X	X	X	X		X[9]
New Hampshire	X		X	X	X		X	X	X	X	X	X		
New Jersey	X		X		X	X	X	X	X	X	X	X		
New Mexico	X	X	X		X	X	X	X		X	X			
New York	X	X	X	X	X		X	X	X	X	X	X		
North Carolina	X	X	X	X	X	X	X	X	X	X	X	X		X[6]
North Dakota	X	X	X	X	X	X	X	X	X	X	X	X		X
Ohio	X	X	X	X	X	X	X	X	X	X	X	X		
Oklahoma	X	X	X	X	X	X	X	X		X	X	X		X
Oregon	X	X	X		X		X	X	X	X	X	X		X[3]
Pennsylvania	X	X	X	X	X	X	X	X	X	X	X	X	X	
Rhode Island	X	X	X	X	X		X	X	X	X	X	X		
South Carolina	X	X	X		X		X	X	X	X	X	X		
South Dakota	X	X	X		X					X	X			X[3]
Tennessee	X	X	X		X		X	X	X	X	X	X		
Texas	X	X	X		X	X	X	X		X		X	X[9]	X[9]
Utah	X	X	X		X	X	X	X	X	X	X	X		X[11]
Vermont	X	X	X		X		X	X		X	X	X		
Virginia	X	X	X	X	X	X	X	X	X	X	X	X		
Washington	X	X	X	X	X	X	X	X		X	X	X	X	X[10]
West Virginia	X	X	X		X	X	X	X		X	X	X	X	
Wisconsin	X	X	X	X	X		X	X	X	X	X	X		X[11]
Wyoming	X	X	X		X	X	X	X	X	X	X	X		
Total States regulated	47	44	47	25	46	24	41	40	28	46	44	40	10	22
Total States unregulated	1	4	1	23	2	24	7	8	20	2	4	8	38	26

[1]Farm products warehouses only.
[2]When maintained by railroads.
[3]Grain warehouses only.
[4]Minimum rates on agricultural products in bonded warehouses only but the Iowa State Commerce Commission has power to change the minimum rates.
[5]Irrigation works only.
[6]Maximum charges of tobacco warehousemen only.
[7]Grain, cotton and broom corn warehouses only.
[8]Grain and hay warehouses only.
[9]When used in connection with railroads.
[10]In counties of 30,000 population or more, excluding certain agricultural products and cold storage products.
[11]When used in connection with common carriers.

Appendix "C"

References to the provisions of the state laws which define the common carriers and public utilities shown in Appendix "B" and which subject them to rate regulation:

Alabama

Railroad, vessel, express, telephone, telegraph—Sections 102, 104 of Title 48 of the Code of Alabama, 1940, pages 381, 382; *electric, gas, heat, water, wharfinger*—Sections 16, 17, 64, 302 of Title 48 of the Code of Alabama, 1940, pages 351, 352, 367, 492; *truck, bus*—Sections 17, 18 of the Alabama Motor Carrier Act of 1939 (General Acts of Alabama, 1939, pages 1077, 1079).

Arizona

Railroad, express, electric, gas, heat, telephone, telegraph, water—Sections 2 and 3 of Article XV of the Constitution of Arizona; *truck, bus*—Section 4 of the Motor Vehicle Code of Arizona (Chapter 100 of the Laws of Arizona; Acts of Arizona, 1933, page 474).

Arkansas

Railroad, vessel, express, pipe line—Sections 7 and 8 of the Arkansas, 1921, pages 177, 187, 188); *electric, gas, heat, telephone, telegraph, water*—Sections 1(e), 8(e), 10(a), 11, 13, 15, 16, 17, 18, 19 of the Arkansas Public Utilities Act, 1935, (Act 324, Acts of Arkansas, 1935, pages 895, 906, 912, 913, 914, 915, 917, 918, 920); *truck, bus*—Sections 16 and 17 of the Arkansas Motor Carrier Act, 1941, (Act 367, Acts of Arkansas, 1941, pages 937, 954, 959); *warehouseman*—Section 16 of the Arkansas Bonded Warehouse Act, 1935, (Act 83, Acts of Arkansas, 1935, pages 181, 192).

California

Railroad, vessel, express, pipe line, electric, gas, heat, telephone, telegraph, water, wharfinger—Sections 2, 14, 15, 63(a) of the Public Utilities Act of California (Statutes of California, 1915, Chapter 91, pages 115, 122, 124, 159); *truck*—Sections 2¾, 14,

15, 63(a) of the Public Utilities Act of California (Statutes of California, 1935, Chapter 664, page 1831; Statutes of California, 1915, Chapter 91, pages 122, 124, 159); *bus*—Sections 2¼, 14, 15, 63(a) of the Public Utilities Act of California (Statutes of California, 1927, Chapter 42, page 73; Statutes of California, 1915, Chapter 91, pages 122, 124, 159); *warehouseman*—Sections 2½, 2(aa), 14, 15, 63(a) of the Public Utilities Act of California (Statutes of California, 1927, Chapter 878, page 1919; Statutes of California, 1915, Chapter ..., pages 118, 122, 124, 159).

Colorado

Railroad, express—Sections 1(e), 14, 15, 16, 17, 18 of the Colorado Public Utilities Law (Chapter 137, 1935 Colorado Statutes Annotated, pages 492, 493, 498, 500, 501); *pipe line, electric, gas, telephone, telegraph, water*—Sections 3, 14, 15, 16, 17, 19 of the Colorado Public Utilities Law (Chapter 137, 1935 Colorado Statutes Annotated, pages 492, 494, 498, 500, 502); *truck, bus*—Sections 1(e), 14, 15, 16, 17, 18 of the Colorado Public Utilities Law (Chapter 137, 1935 Colorado Statutes Annotated, pages 492, 493, 498, 500, 501); Sections 300 to 370 of the Colorado Public Carriers Law (Chapter 16, 1935 Colorado Statutes Annotated, pages 215 to 241).

Connecticut

Railroad, express, electric, gas, telephone, telegraph, water—Section 3577 of the General Statutes of Connecticut, Revision of 1930, Volume II, page 1168, and Section 1414c of the Cumulative Supplement to General Statutes of Connecticut 1935, (Supplement to Connecticut General Statutes, January Sessions 1931, 1933, 1935, page 591); *truck*—Section 584c of the Cumulative Supplement to General Statutes of Connecticut, 1935, (Supplement to Connecticut General Statutes, January Sessions 1931, 1933, 1935, page 253); *bus*—Sections 3850, 3851 of the General Statutes of Connecticut, Revision of 1930, Volume II, page 1242.

Delaware

There is no regulation by the State of Delaware of the rates of common carriers or other public utilities.

Florida

Railroad—Sections 350.07, 350.10, 350.11, 350.12 of Title XXV, Chapter 350, of Florida Statutes, 1941; *vessel*—Sections 350.11, 350.12 of Title XXV, Chapter 350, of Florida Statutes, 1941; *express*—Sections 350.10, 350.12 of Title XXV, Chapter 350, of Florida Statutes, 1941; *telephone*—Sections 364.02-.05 of Title XXV, Chapter 350, of Florida Statutes, 1941; *telegraph*—Sections 363.01, 364.02-.05 of Title XXV, Chapter 350, of Florida Statutes, 1941; *truck, bus*—Sections 323.01(7), 323.07, 323.08 of Title XXII, Chapter 317, of Florida Statutes, 1941.

Georgia

Railroad, express, electric, gas, telephone, telegraph, wharfinger—Chapters 93-1, 93-2, 93-3, 93-4, 93-5 of the Georgia Code of 1933, pages 2434, 2437, 2445, 2450 (See particularly Chapter 93-307, page 2440); *truck, bus*—Chapter 68-6 of the Georgia Code of 1933, page 1790 (See particularly Chapter 68-613, page 1793); *warehouseman*—Chapters 93-1, 93-2, 93-3, 93-4, 93-5 of the Georgia Code of 1933, pages 2434, 2437, 2445, 2450 (See particularly Chapters 93-304, 93-307, 93-317, pages 2439, 2440, 2444); *water*—Act No. 386 of Georgia Laws, 1941, page 283.

Idaho

Railroad—Sections 59-110, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 826, 832, 838, 858, 860); *vessel*—Sections 59-126, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 831, 832, 838, 858, 860); *express*—Sections 59-112, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 827, 832, 838, 858, 860); *pipe line*—Sections 59-114, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 827, 832, 838, 858, 860); *electric*—Sections 59-118, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 828, 832, 838, 858, 860); *gas*—Sections 59-116, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 828, 832, 838, 858, 860); *telephone*—Sections 59-120, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated,

Volume 3, pages 829, 832, 838, 858, 860); *telegraph*—Sections 59-122, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 830, 832, 838, 858, 860); *water*—Sections 59-124, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 830, 832, 838, 858, 860); *Wharfinger*—Sections 59-127, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 832, 838, 858, 860); *truck, bus*—Sections 59-801, 59-807 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 908, 912); *warehouseman*—Sections 59-128, 59-129, 59-301, 59-501, 59-502 of the Idaho Public Utilities Law (Idaho Code Annotated, Volume 3, pages 832, 838, 858, 860).

Illinois

Railroad, bus, vessel, express, pipe line, electric, gas, heat, telephone, telegraph, water, wharfinger—Sections 10, 32 to 64 of Chapter 111⅔ of the Illinois Revised Statutes, 1941, (State Bar Association Edition) pages 2497, 2503 et seq.; *warehouseman*—Sections 10, 32 to 36 of Chapter 111⅔, Section 202 of Chapter 114 of the Illinois Revised Statutes, 1941, (State Bar Association Edition) pages 2497, 2503 et seq., 2591.

Indiana

Railroad, electric, heat, telephone, telegraph, water, warehouseman—Sections 1, 7, 8, 9, 10, 12, 27, 28 of the Indiana Public Service Commission Act (Acts of Indiana, 1913, Chapter 76, pages 167 et seq.); as amended, in part, by Acts of Indiana, 1933, Chapter 190, pages 928 et seq.; Section 11 of the Indiana Public Service Commission Act (Acts of Indiana, 1913, Chapter 76, page 173); as amended by Acts of Indiana, 1925, Chapter 63, page 209; *truck, bus*—Section 2 of the Indiana Motor Vehicle Act (Acts of Indiana, 1935, Chapter 287, page 1412); as amended by Acts of Indiana 1937, Chapter 300, pages 1357 et seq. and as further amended by Acts of Indiana, 1941, Chapter 222, pages 693 et seq.; Sections 15(e), 15(g) of Indiana Motor Vehicle Act (Acts of Indiana, 1935, Chapter 287, pages 1427, 1428); as amended by Acts of Indiana, 1941, Chapter 222, pages 701, 703 which included addition of Section 15(h) at page 703;

Iowa

Railroad—Sections 8037, 8048, 8100-05 of Chapter 373 of the Code of Iowa, 1939, pages 1338, 1339, 1345, 1346; *express*—Sections 8236, 8237 of Chapter 380 of the Code of Iowa, 1939, page 1365; *warehouseman*—Sections 9751.01, 9751.18(5) of Chapter 426 of the Code of Iowa, 1939, pages 1595, 1598; *truck, bus*—Sections 5100.01, 5100.02, 5100.04, 5100.05, 5105.02 of Chapter 252.1 of the Code of Iowa, 1939, pages 864, 869.

Kansas

Railroad, express—Sections 66-105, 66-107, 66-110 et. seq. of Chapter 66 of the General Statutes of Kansas, 1935, pages 1549, 1550 et seq.; *pipe line*—Sections 66-105, 66-107, 66-110 et seq. of Chapter 66 of the General Statutes of Kansas, 1935, pages 1549, 1550 et seq.; Sections 55-503, 55-504 of Chapter 55 of the General Statutes of Kansas, 1935, page 1184; *electric, gas, heat, telephone, telegraph, water*—Sections 66-104, 66-107, 66-110 et seq. of Chapter 66 of the General Statutes of Kansas, 1935, pages 1548, 1549, 1550 et seq.; *truck, bus*—Sections 66-1108, 66-1110, 66-1112 of Chapter 66 of the General Statutes of Kansas, 1935, pages 1572, 1573; *warehouseman*—Sections 34-224, 34-225, 34-235 of Chapter 34 of the General Statutes of Kansas, 1935, pages 890, 892.

Kentucky

Railroad, vessel, express—Sections 201e-1, 201e-5 of Chapter 13a of the Kentucky Revised Statutes (Baldwin's 1936 Revision), pages 131, 132; *pipe line, electric, gas, telephone, telegraph, water*—Sections 3952-1, 3952-14 of Chapter 104a of the Kentucky Revised Statutes (Baldwin's 1936 Revision), pages 2076, 2079; *truck, bus*—Sections 2739j-1, 2739j-9, 2739j-10, 2739j-42, 2739j-56, 2739j-60 of Article VII of the Kentucky Revised Statutes (Baldwin's 1936 Revision), pages 1448, 1456, 1457, 1459, 1460.

Louisiana

Railroad, vessel—Sections 4, 5 of Article VI of the Louisiana Constitution of 1921 (Dart's 1932 Annotated Edition; pages 99, 102); Section 1 of Act No. 24 of the Acts of Louisiana, 1904, page 28; *express, telephone, telegraph*—Sections 4, 5 of Article

VI of the Louisiana Constitution of 1921 (Dart's 1932 Annotated Edition, pages 99, 102); Section 2 of Act No. 24 of Acts of Louisiana, 1904, page 28; *pipe line*—Sections 4, 5 of Article VI of the Louisiana Constitution of 1921 (Dart's 1932 Annotated Edition, pages 99, 102); *electric, gas, heat, water*—Sections 4, 5 of Article VI of the Louisiana Constitution of 1921 (Dart's 1932 Annotated Edition, pages 99, 102); Section 1 of Act No. 19 of the Acts of Louisiana, 1934, 2nd Extraordinary Session, page 110; *truck, bus*—Sections 2(j), 4 of Act No. 301 of the Acts of Louisiana, 1938, pages 774, 776.

Maine

Railroad, vessel, express, electric, gas, telephone, telegraph, water, wharfinger, warehouseman—Sections 15, 16, 33, 51 et seq. of Chapter 62 of the Revised Statutes of Maine, 1930, pages 1029, 1032, 1034, 1042 et seq.; *heat*—Section 1 of Chapter 126 of the Laws of Maine, 1931, page 98; Sections 16, 33, 51 et seq. of Chapter 62 of the Revised Statutes of Maine, 1930, pages 1032, 1034, 1042 et seq.; *truck*—Sections 2, 4 of Chapter 259 of the Laws of Maine, 1933, pages 429, 431; *bus*—Sections 1, 2 of Chapter 66 of the Revised Statutes of Maine, 1930, page 1099.

Maryland

Railroad, vessel, express—Sections 344, 368, 371, 372, 381, 382 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 950, 953, 960, 962; *electric, gas*—Sections 344, 345, 371, 372, 398, 407, 409 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition) pages 932, 936, 953, 972, 979, 981; *heat*—Sections 344, 371, 372, 413 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 953, 983; *telephone*—Sections 305, 344, 371, 372, 411, 412 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 917, 932, 953, 982, 983; *telegraph*—Sections 344, 371, 372, 411, 412 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 953, 982, 983; *water*—Sections 344, 371, 372, 413, 414 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 953, 983, 984; *truck*—Sections 345, 371, 372, 381, 382 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 953, 960, 962; Section 315

of Article 56 of the Annotated Code of Maryland, 1939 (Flack Edition), page 2436; *bus*—Sections 345, 371, 372, 381, 382 of Article 23 of the Annotated Code of Maryland, 1939 (Flack Edition), pages 932, 953, 960, 962; Section 304 of Article 56 of the Annotated Code of Maryland, 1939 (Flack Edition), page 2428.

Massachusetts

Railroad, vessel, express, telephone, telegraph—Sections 12, 13, 14 of Chapter 159 of the General Laws of Massachusetts, 1932, page 1992; *electric, gas*—Sections 1, 93, 94 of Chapter 164 of the General Laws of Massachusetts, 1932, pages 2134, 2159; *water*—Sections 1, 2 (by reference to Sections 93, 94 of Chapter 164) of Chapter 165 of the General Laws of Massachusetts, 1932, page 2169; *truck*—Sections 1, 2 of Chapter 159B of the General Laws of Massachusetts (Acts and Resolves of Massachusetts, 1934, pages 318, 319); *bus*—Sections 12, 13, 14 of Chapter 159 and Section 1 of Chapter 159A of the General Laws of Massachusetts, 1932, pages 1992, 2018.

Michigan

Railroad, express—Sections 3, 10, 22 of Act No. 300 of the Public Acts of Michigan, 1909, pages 707, 713, 719; Section 6 of Act No. 3 of the Public Acts of Michigan, 1939, page 10; *vessel*—Sections 1, 4 of Act No. 246 of the Public Acts of Michigan, 1921, pages 459, 460; Section 6 of Act No. 3 of the Public Acts of Michigan, 1939, page 10; *pipe line, electric, gas, telephone, telegraph*—Section 6 of Act No. 3 of the Public Acts of Michigan, 1939, page 10; *truck, bus*—Sections 1, 10 of Act No. 254 of the Public Acts of Michigan, 1933, pages 411, 416; Section 6 of Act No. 3 of the Public Acts of Michigan, 1939, page 10.

Minnesota

Railroad, express—Sections 4628, 4767, 4769, 4771 et seq. of Mason's Minnesota Statutes of 1927, pages 1020, 1037, 1038; *telephone*—Sections 5286, 5289, 5290, 5291 of Mason's Minnesota Statutes of 1927, pages 1104, 1105; *truck, bus*—Sections 5015-2(*l*), 5015-4 of Mason's Minnesota Statutes of 1927, page 1071; *warehouseman*—Sections 4628, 5084, 5172, 5173, 5188 of Mason's Minnesota Statutes of 1927, pages 1020, 1083, 1091,

1092, 1093; Section 5173 of Mason's Minnesota Statutes of 1927; as amended by Chapter 139 of the Laws of Minnesota, 1941, page 185.

Mississippi

Railroad—Sections 7046, 7056, 7095 of the Mississippi Code Annotated, 1930, Volume 2, pages 2832, 2834, 2848; *express, telephone, telegraph*—Sections 7046, 7056, 7096 of the Mississippi Code Annotated, 1930, Volume 2, pages 2832, 2834, 2850; *truck, bus*—Sections 3(e), 14, 15 of the Mississippi Motor Carrier Regulatory Act 1938 (General Laws of Mississippi, 1938, pages 188, 198, 201).

Missouri

Railroad—Sections 5122.6, 5167 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1411, 1430); *vessel, express*—Sections 5122.9, 5122.23, 5167 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1411, 1412, 1430); *electric*—Sections 5122.13, 5189 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1411, 1444); *gas*—Sections 5122.11, 5189 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1411, 1444); *heat*—Sections 5122.25, 5228 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1412, 1470); *telephone*—Sections 5122.17, 5208 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1412, 1458); *telegraph*—Sections 5122.19, 5208 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1412, 1458); *water*—Sections 5122.21, 5189 of the Missouri Public Service Commission Law (Chapter 33 of the Revised Statutes of Missouri, 1929, pages 1412, 1444); *warehouseman*—Section 14685.24 of the Missouri Revised Statutes Annotated, Laws of 1941, page 677 (Laws of Missouri, 1941, page 384); *truck, bus*—Sections 5264(b), 5267 of the Missouri Public Service Commission Law (Laws of Missouri, 1931, page 304; 1935, page 321).

Montana

Railroad, express—Sections 3792, 3793, 3794, 3797 of Chapter 309 of the Revised Code of Montana, 1935, pages 659, 662; *pipe line*—Sections 3848, 3851 of Chapter 311 of Revised Code of Montana, 1935, pages 692, 694; *electric, gas, heat, telephone, telegraph, water*—Sections 3881, 3883, 3897 et seq. of Chapter 313 of the Revised Code of Montana, 1935, pages 705, 706, 712 et seq.; *truck, bus*—Sections 3847.1(h), 3847.3 of Chapter 310 of the Revised Code of Montana, 1935, pages 680, 682.

Nebraska

Railroad, vessel, pipe line, telephone—Section 20 of Article IV of the Constitution of Nebraska (Compiled Statutes of Nebraska, 1929, page 45); Sections 75-201, 75-203 of Chapter 75 of the Compiled Statutes of Nebraska, 1929, pages 1425, 1426; *express*—Section 20 of Article IV of the Constitution of Nebraska (Compiled Statutes of Nebraska, 1929, page 45); Sections 75-201, 75-203 of Chapter 75 of the Compiled Statutes of Nebraska, 1929, pages 1425, 1426; Sections 86-501 et seq. of the Compiled Statutes of Nebraska, 1929, pages 1757 et seq.; *telegraph*—Sections 86-101, 86-114, 86-115 of Chapter 86 of the Compiled Statutes of Nebraska, 1929, pages 1748, 1750; *water*—Section 46-627 of Chapter 46 of the Compiled Statutes of Nebraska, 1929, page 1136 *warehouseman*—Sections 88-219, 88-226 of Chapter 88 of the Compiled Statutes of Nebraska, 1941 Supplement, pages 890, 891; *truck, bus*—Sections 75-223(i), 75-234, 75-236 of Chapter 75 of the Compiled Statutes of Nebraska, 1937 Supplement, pages 530, 532, 533.

Nevada

Railroad, express, electric, gas, heat, telephone, telegraph, water—Sections 7, 9, 17 of the Nevada Public Service Commission Law (Statutes of Nevada, 1919, pages 200, 201, 205); as amended by Statutes of Nevada, 1928, page 58; *truck, bus*—Sections 7, 9, 17 of the Nevada Public Service Commission Law (Statutes of Nevada, 1919, pages 200, 201, 205); as amended by Statutes of Nevada, 1928, page 58; Sections 2, 5, 6 of the Nevada Motor Vehicle Carrier Regulation and Licensing Act (Statutes of Nevada, 1933, pages 218, 219, 220); *warehouseman*—Section 6106 of the Public Service Commission Act of Nevada (Hillyer's Nevada Compiled Laws of 1929, Volume 3, page 1733).

New Hampshire

Railroad, vessel, express—Sections 2, 3 of Chapter 236; 3 et seq. of Chapter 242 of Public Laws of New Hampshire, 1926, pages 919, 920, 947 et seq.; *electric, gas, heat, telephone, telegraph, water*—Sections 4 of Chapter 236; 3 et seq. of Chapter 242 of the Public Laws of New Hampshire, 1926, pages 920, 947 et seq.; Sections 1, 2 of Chapter 148 of New Hampshire Laws, 1941, page 222; *bus*—Sections 2-IV, 14, 16 of the New Hampshire Motor Carrier Act (New Hampshire Laws, 1941, Chapter 224, pages 430, 436).

New Jersey

Railroad, bus, express, pipe line, electric, gas, heat, telephone, telegraph, water—Sections 48:2-13, 48:2-21 of Title 48 of the Revised Statutes of New Jersey, 1937, Volume II.

New Mexico

Railroad, express, telegraph—Section 7 of Article XI of the Constitution of New Mexico (New Mexico Statutes Annotated, Compilation of 1929; page 126); *pipe line*—Section 7 of Article XI of the Constitution of New Mexico (New Mexico Statutes Annotated, Compilation of 1929, page 126); Section 104-102 of New Mexico Statutes Annotated, Compilation of 1929, page 1305; *electric, gas*—Sections 90-2201, 90-2207 of Chapter 90 of New Mexico Statutes Annotated, Compilation of 1929, pages 1217, 1218; *telephone*—Section 7 of Article XI of the Constitution of New Mexico (New Mexico Statutes Annotated, Compilation of 1929, page 126); Sections 90-2201, 90-2207 of Chapter 90 of New Mexico Statutes Annotated, Compilation of 1929, pages 1217, 1218; *truck, bus*—Sections 11-1001(d), 11-1002 of Chapter 11 of New Mexico Statutes Annotated, Compilation of 1929, page 304.

New York

Railroad, vessel, express—Sections 2, 5, 26 et seq., 49 of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 149 et seq., 155); *electric, gas*—Sections 2, 5, 65, 66, 71 et seq. of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 178, 184 et seq.); *heat*—Sections 2, 5, 79, 80,

84 et seq. of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 185, 186, 189 et seq.); *telephone, telegraph*—Sections 2, 5, 91, 92, 97 of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 197, 200); *water*—Sections 2, 5, 89-b, 89-c, 89-i et seq. of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 191, 195 et seq.); *truck*—Sections 2, 5, 63-s of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 174); *bus*—Sections 2, 5, 60-a, 61 of the Public Service Laws of New York (Thompson's Laws of New York, 1939, Part II, pages 140, 144, 163, 164).

North Carolina

Railroad, vessel, express—Sections 1035, 1066 of Chapter 21 of the North Carolina Code of 1939, Annotated, pages 488, 496; as amended by Chapter 97 of the Public Laws of North Carolina, session 1941, page 151; *pipe line, heat*—Sections 1112(1), 1112(4) et seq. of the North Carolina Code of 1939, Annotated, pages 513, 514 et seq.; as amended by Chapter 97 of the Public Laws of North Carolina, Session 1941, page 151; *electric, gas, telephone, telegraph*—Sections 1035, 1066, 1112(1), 1112(4) et seq. of the North Carolina Code of 1939, Annotated, pages 488, 496, 513, 514 et seq.; as amended by Chapter 97 of the Public Laws of North Carolina, Session 1941, page 151; *water*—Sections 1035, 1112(1), 1112(4) et seq. of the North Carolina Code of 1939, Annotated, pages 488, 513, 514 et seq.; as amended by Chapter 97 of the Public Laws of North Carolina, Session 1941, page 151; *warehouseman*—Section 5124 of the Consolidated Statutes of North Carolina, Annotated, 1919, Volume Two, page 1331 (Section 5124 of North Carolina Code of 1939, Annotated, page 1923); as amended by Chapter 291 of Public Laws of North Carolina Session 1941, page 421; *truck, bus*—Sections 1112(1), 1112(4) et seq. of the North Carlina Code of 1939, Annotated, pages 513, 514 et seq.; Sections 2613(j), 2613(p), 2613(v) of Chapter 55 of the North Carolina Code of 1939, Annotated, pages 1126, 1129, 1132; as amended by Chapter 97 of the Public Laws of North Carolina, Session 1941, page 151.

North Dakota

Railroad, vessel, express, pipe line, electric, gas, heat, telephone, telegraph, water—Sections 4609c-2, 4609c-3, 4609c-4, 4609c-14, 4609c-37 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, Annotated, pages 956, 957, 958, 962, 969, as amended; *warehouseman*—Sections 4609c-2, 4609c-3, 4609c-4, 4609c-14, 4609c-37 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota, Annotated, pages 956, 957, 958, 962, 969, as amended; Chapter 227 of the Laws of North Dakota, 1931, page 397; *truck, bus*—Sections 1, 6 of Chapter 164 of the Laws of North Dakota, 1933, pages 245, 246; as amended by Chapter 197 of the Laws of North Dakota, 1941, page 295.

Ohio

Railroad, vessel, express—Sections 501, 508, 527, 614-2, 614-2(a), 614-2(o) of Page's Ohio General Code, Annotated, Volume 1, pages 245, 253, 258, 285, 287, 295; as amended—See Page's Ohio General Code, Annotated, Spring 1942 Supplement, pages 45, 46; *pipe line, electric, gas, heat, telephone, telegraph, water*—Sections 614-2, 614-2(o) of Page's Ohio General Code, Annotated, Volume 1, pages 285, 295; as amended—See Page's Ohio General Code, Annotated, Spring 1942 Supplement, pages 45, 46; *truck, bus*—Sections 614-2, 614-2(o), 614-84, 614-86 of Page's Ohio General Code, Annotated, Volume 1, pages 285, 295, 319, 321; as amended—See Page's Ohio General Code, Annotated, Spring 1942 Supplement, pages 45, 46, 47, 48.

Oklahoma

Railroad—Sections 17, 18 of Article IX of the Oklahoma Constitution; Section 71 of Title 17 of the Oklahoma Statutes, 1941, pages 70, 691; *vessel, express, telephone, telegraph*—Sections 17, 18 of Article IX of the Oklahoma Constitution (Oklahoma Statutes, 1941, page 70); *pipe line*—Sections 17, 18 of Article IX of the Oklahoma Constitution (Oklahoma Statutes, 1941, page 70); Sections 151, 152 of Title 17 of the Oklahoma Statutes, 1941, page 697; *electric, gas, water*—Sections 151, 152 of Title 17 of the Oklahoma Statutes, 1941, page 697; *truck, bus*—Sections 161, 162 of Title 47 of the Oklahoma Statutes.

1941, pages 1513, 1514; *warehouseman*—Sections 1, 13, 141, 149 of Title 81 of the Oklahoma Statutes, 1941, pages 2580, 2582, 2590, 2591.

Oregon

Railroad, express—Sections 113-102, 113-111 et seq. of Oregon Compiled Laws Annotated, Volume 8, pages 482, 490 et seq.; as amended—See Oregon Compiled Laws Annotated, 1941 Annual Pocket Part for Volume 8, page 34; *electric, gas, heat, telephone, telegraph, water*—Sections 112-401, 112-425, 112-429 et seq., 112-4134 of the Oregon Compiled Laws Annotated, Volume 8, pages 401, 413, 415 et seq., 457; *truck, bus*—Sections 115-502, 115-506 of the Oregon Compiled Laws Annotated, Volume 8, pages 809, 817; as amended—See Oregon Compiled Laws Annotated, 1941 Annual Pocket Part for Volume 8, page 74; *warehouseman*—Sections 60-301, 60-306 of the Oregon Compiled Laws Annotated, Volume 4, pages 1149, 1151.

Pennsylvania

Railroad, vessel, express—Sections 1102(5), 1102(17), 1102(18), 1141, 1148, 1149 et seq. of Title 66 of Purdon's Pennsylvania Statutes Annotated (Titles 62-66), pages 562, 565, 596, 610, 615, et seq.; *pipe line, electric, gas, heat, telephone, telegraph, water, wharfinger*—Sections 1102(17), 1141, 1148, 1149 et seq. of Title 66 of Purdon's Pennsylvania Statutes Annotated (Titles 62-66), pages 596, 610, 615 et seq.; *truck, bus*—Sections 1102(5), 1102(6), 1141, 1148, 1149 et seq. of Title 66 of Purdon's Pennsylvania Statutes Annotated (Titles 62-66), pages 562, 563, 596, 610, 615 et seq.; as amended—See Purdon's Pennsylvania Statutes Annotated (Titles 62-66), 1941 Cumulative Annual Pocket Part, page 24.

Rhode Island

Railroad, vessel, express, electric, gas, heat, telephone, telegraph, water—Sections 2, 15 et seq. of Chapter 122 of the General Laws of Rhode Island, 1938, pages 288, 289 et seq.; *truck*—Sections 3 of Article II and 3 of Article III of Chapter 199 of the General Laws of Rhode Island, 1938, pages 230, 231; *bus*—Sections 1, 2 of Chapter 125 of the General Laws of Rhode Island, 1938, page 304.

South Carolina

Railroad—Sections 8288, 8304 et seq. of the Code of Laws of South Carolina, 1932, Volume III, pages 875, 881 et seq.; Act No. 18 of the Acts of South Carolina, 1935, page 25; Acts of South Carolina, 1937, page 1471; *express*—Section 8542 of the Code of Laws of South Carolina, 1932, Volume III, page 969; Act No. 18 of the Acts of South Carolina, 1935, page 25; Acts of South Carolina, 1937, page 1471; *electric, gas, heat, water*—Sections 8248, 8252 of the Code of Laws of South Carolina, 1932, Volume III, pages 862, 863; as amended by Statutes at Large of South Carolina, 1937, pages 1471, 1493; Act No. 18 of the Acts of South Carolina, 1935, page 25; *telephone*—Section 8541 of the Code of Laws of South Carolina, 1932, Volume III, page 968; Acts of South Carolina, 1937, page 1471; *telegraph*—Sections 8541, 8542 of the Code of Laws of South Carolina, 1932, Volume III, pages 968, 969; Acts of South Carolina, 1937, page 1471; *truck, bus*—Sections 8507, 8516 of the Code of Laws of South Carolina, 1932, Volume III, pages 954, 960.

South Dakota

Railroad—Sections 52.0201, 52.0216 of Title 52 of the South Dakota Code of 1939, Volume 3, pages 491, 498; *express*—Sections 52.0201, 52.0216, 52.1401, 52.1403 of Title 52 of the South Dakota Code of 1939, Volume 3, pages 491, 498, 566; *telephone, telegraph*—Sections 52.0201, 52.0216, 52.0260 of Title 52 of the South Dakota Code of 1939, Volume 3, pages 491, 498, 512; *truck, bus*—Sections 44.0401, 44.0403 of Title 44 of the South Dakota Code of 1939, Volume 3, pages 212, 214; *warehouseman*—Sections 60.0303, 60.0311 of Title 60 of the South Dakota Code of 1939, Volume 3, pages 1083, 1085.

Tennessee

Railroad—Section's 5397, 5415 of Michie's Tennessee Code of 1938, Annotated, pages 810, 812; *express, electric, gas, heat, telephone, telegraph, water*—Sections 5448, 5450 of Michie's Tennessee Code of 1938, Annotated, pages 817, 818; *truck, bus*—Sections 1166(3), 5501(1), 5501(4) of Michie's Tennessee Code of 1938, Annotated, pages 822, 823.

Texas

Railroad, wharfinger, warehouseman—Article 6445 of Vernon's Texas Statutes, 1936, page 1183; *express*—Articles 3860, 3861 of Vernon's Texas Statutes, 1936, page 757; *pipe line*—Article 6049a, Sections 1, 6(a), of Vernon's Texas Statutes, 1936, pages 1099, 1100; *electric, telephone, water*—Articles 1125, 1131 of Vernon's Texas Statutes, 1936, pages 281, 282; *gas*—Articles 6050, 6053 of Vernon's Texas Statutes, 1936, pages 1107, 1108; Articles 1125, 1131 of Vernon's Texas Statutes, 1936, pages 281, 282; *truck*—Article 911b, Sections 1(g), 4(a) of Vernon's Texas Statutes, 1936, page 231; *bus*—Article 911a, Sections 1(c), 4(a) of Vernon's Texas Statutes, 1936, page 227.

Utah

Railroad, express, electric, gas, heat, telephone, telegraph, water, warehouseman—Sections 76-2-1, 76-6-12 of Title 76 of the Revised Statutes of Utah, 1933, pages 811, 831; as amended by Section 76-1-3b of Title 76 of the Utah Revised Statutes Supplement, 1939, page 401; *truck, bus*—Sections 76-5-1, 76-5-3, 76-5-5 of Title 76 of the Utah Revised Statutes Supplement, 1939, pages 404, 405.

Vermont

Railroad—Section 6009 of Chapter 244 of the Public Laws of Vermont, 1933 (Proposed Revision), p. 886; *express, electric, gas, telephone, telegraph, water, truck, bus*—Sections 5760, 5765, 5766, 5767 of the Public Laws of Vermont, 1933 (Proposed Revision), pages 847, 848, 849.

Virginia

Railroad, vessel, express—Section 156(b) of the Constitution of Virginia; Sections 3881, 3908, 3909 of the Virginia Code of 1936, Annotated, pages 2371, 1128, 1138; *pipe line*—Sections 3881, 4071 of the Virginia Code of 1936, Annotated, pages 1128, 1182; *electric, gas, heat, water*—Sections 3881, 4067, 4071 of the Virginia Code of 1936, Annotated, pages 1128, 1182; *telephone*—Section 156(b) of the Constitution of Virginia; Sections 3881, 4052, 4067, 4071 of the Virginia Code of 1936, Annotated, pages 2371, 1128, 1174, 1182; *telegraph*—

Section 156(b) of the Constitution of Virginia; Section 3881 of the Virginia Code of 1936, Annotated, pages 2371, 1128; *truck, bus*—Sections 4097m, 4097y(1), 4097y(4) of the Virginia Code of 1936, Annotated, pages 1194, 1201, 1202; as amended by Section 4097y(1) of the 1940 Cumulative Supplement to the Virginia Code of 1936, Annotated, page 333.

Washington

Railroad, vessel, express—Sections 10344, 10350 et seq. of Remington's Revised Statutes of Washington, Annotated, Volume 11, pages 20, 28 et seq.; *pipe line*—Section 9965 of Remington's Revised Statutes of Washington, Annotated, Volume 10, page 661; Section 9965-1 of Remington's Revised Statutes of Washington, 1940 Annual Pocket Part for Volume 10, page 249; *electric, gas, water*—Sections 10344, 10362, 10390 of Remington's Revised Statutes of Washington, Annotated, Volume 11, pages 20, 43, 59; *telephone, telegraph*—Sections 10344, 10371, 10391 of Remington's Revised Statutes of Washington, Annotated, Volume 11, pages 20, 49, 61; *truck*—Sections 6382, 6382-11a of Remington's Revised Statutes of Washington, Annotated, Volume 7A, pages 250, 256; as amended by Section 6382-11a of Remington's Revised Statutes of Washington, Annotated, 1941 Supplement, page 216; *bus*—Sections 6387, 6389 of Remington's Revised Statutes of Washington, 1940 Annual Pocket Part for Volume 7A, pages 23, 26; *wharfinger*—Sections 10344, 10392 of Remington's Revised Statutes of Washington, Annotated, Volume 11, pages 20, 63; *warehouseman*—Sections 10344, 10392 of Remington's Revised Statutes of Washington, Annotated, Volume 11, pages 20, 63; Sections 11569-1, 11569-4 of Remington's Revised Statutes of Washington, 1940 Annual Pocket Part, for Volume 11, pages 271, 274.

West Virginia

Railroad, express, pipe line, electric, gas, telephone, telegraph, water, wharfinger—Sections 2553(1), 2555(3) of West Virginia Code of 1937, Annotated, pages 884, 886; *truck, bus*—Sections 2577(2)[2], 2577(6)[3] of West Virginia Code of 1937, Annotated, page 898; as amended by Section 2577(2)[2] of 1941 Cumulative Supplement to the West Virginia Code of 1937, Annotated, page 250.

Wisconsin

Railroad, vessel, express, telegraph, warehouseman—Sections 195.02, 195.05, 195.08 of Wisconsin Statutes, 1937, pages 2002, 2005, 2006; *electric, gas, heat, telephone, water*—Sections 196.01, 196.37 of Wisconsin Statutes, 1937, pages 2015, 2023; *truck, bus*—Sections 194.01, 194.18 of Wisconsin Statutes, 1937, pages 1990, 1994.

Wyoming

Railroad, express, pipe line, electric, gas, heat, telephone, telegraph, water—Sections 94-101, 94-120 of Chapter 94 of the Wyoming Revised Statutes, 1931, pages 1621, 1623; *truck, bus*—Sections 2, 8 of Chapter 65 of the Session Laws of Wyoming, 1935, pages 63, 66.